MONTANA LEGISLATIVE HISTORY

Chapter 5 19 71

Bill H _____ S 1 _____ Original bill & history ✓ C

H. Committee on Education

Hearing Date(s) 1/7 ✓ C

_____ C

_____ C

_____ C

Date Out _____ C

S. Committee on Education

Hearing Date(s) 1/5 ✓ C

1/6 ✓ C

_____ C

_____ C

Did this bill originate in an interim committee? ____Yes ✓ No

Committee _____ Report _____

COMMITTEE ON EDUCATION

BILL NO.	ENTERED COMM.	OUT OF COMM.	DO PASS	DO NOT PASS	DO PASS AS AMENDED	BE CONCURRED IN	BE CONCURRED IN AS AMENDED	BE NOT CONCURRED IN	REFERRED BACK TO COMMITTEE
SB 1	1/5/71	1/6/71	X						
SB 2	1/5/71	1/6/71	X						
SB 10	1/5/71	2/5/71	X						
SB 29	1/8/71	1/21/71			X				
SB 56	1/11/71	1/19/71	X		X (1/27/71)				1/21/71
SB 58	1/11/71	1/19/71			X				
SB 103	1/15/71	1/21/71			X				
SB 118	1/15/71	2/5/71		X					
SB 123	1/15/71	2/9/71		X					
SB 129	1/16/71	1/21/71		X					
SB 130	1/16/71	1/21/71	X						
SB 142	1/18/71	2/10/71	X						
SB 145	1/18/71	1/23/71	X						
SB 155	1/19/71	1/29/71			X				
SB 163	1/19/71	1/23/71	X						
SB 182	1/20/71	2/3/71	X						
SB 192	1/20/71	2/3/71	X						
SB 200	1/21/71	2/9/71		WITHOUT RECOMMENDATION					
SB 219	1/21/71	2/3/71	X						
SB 235	1/21/71	1/27/71			X				
SB 236	1/21/71	1/27/71			X				
SB 249	1/21/71	1/27/71			X				
SB 297	1/21/71	1/29/71	X						

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SENATE COMMITTEE ON

EDUCATION

DATE 1971

NAME	1/5	1/6	1/14	1/16	1/19	1/21	1/23	1/25	1/27	1/29	2/1	2/3	2/3	2/5	2/8	2/9	2/10	2/12	2/15	2/17
COTTON, Chairman	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
GILFEATHER, Vice Ch.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
BOYLAN	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
BROWNFIELD	P	P	P	P	P	P	P	P	P	P	P	P	A	P	P	P	P	P	P	P
CARL	P	P	P	P	P	P	P	P	P	P	P	P	P	A	P	P	P	P	A	P
JAMES	P	P	P	A	P	P	P	P	P	P	A	P	P	A	A	P	A	A	P	P
KLINDT	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
LYNCH	P	P	A	P	P	P	P	P	P	P	P	A	P	P	P	P	P	A	P	P
MATHERS	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	P	P
RUGG-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	P	P
THIESSEN	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	7:00 p.m.	11:45 a.m.	9:30 a.m.	9:30 a.m.	9:30 a.m.	9:30 a.m.	9:30 a.m.	10:00 a.m.	10:00 a.m.	10:00 a.m.	10:00 a.m.	10:00 a.m.	4:35 p.m.	10:00 a.m.	10:00 a.m.	8:00 a.m.	10:00 a.m.	12:40 p.m.	10:00 a.m.	10:00 a.m.

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1971

VOTING RECORD

EDUCATION COMMITTEE

DATE	1/6/71	1/6/71		1/19/71	1/19/71	1/21/71	1/21/71	1/21/71	1/21/71
MOTION	Do Pass	Do Pass		Do Pass as Amended	Do Pass	Do Pass as Amended	Do Pass as Amended	Do Pass	Do Not Pass
BILL NO.	SB 1	SB 2		58	56	103	29	130	129
COTTON	aye	aye		no	aye	aye	aye	no	aye
GILFEATHER	aye	aye		no	yes	aye	aye	aye	aye
BOYLAN	aye	aye		no	aye	aye	aye	no	aye
BROWNFIELD	aye	aye		aye	aye	aye	aye	aye	aye
CARL	aye	aye		aye	A	aye	aye	aye	aye
JAMES	aye	aye		aye	aye	yes	aye	aye	aye
KLINDT	aye	aye		aye	aye	aye	aye	aye	aye
LYNCH	aye	aye		no	aye	aye	aye	aye	aye
MATHERS	aye	aye		aye	aye	—	aye	—	—
RUGG	aye	aye		aye	aye	aye	aye	aye	aye
THIESSEN	aye	aye		aye	aye	aye	aye	aye	aye

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1971 EDUCATION COMMITTEE

BILL WARFIELD, Chairman

OSCAR KVAALEN, Vice-Chairman

WILLIAM CAMPBELL

HENRY COX

DICK FORESTER

MATT HIMSL

ART LUND

ROBERT MARKS

LARRY FASBENDER

JACK GUNDERSON

D. L. KNUDSEN

BRADLEY B. PARRISH

LELAND SCHOONOVER

ARTHUR SHELDEN

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A special public hearing on Senate Bill No. 1 and Senate Bill No. 2 was called to order at 7:15 p.m. in the Senate Chambers on January 5, 1971, by Senator Robert S. Cotton, Chairman of the Senate Education Committee. All members of the Education Committee of both the Senate and House of Representatives were in attendance.

Senator Cotton then introduced Senator James, who authored Senate Bill 1, for opening remarks. Senator James then explained the work of the sub-committee on recodification of the school laws. He reported Senate Bill 1 was the result of a long and tedious effort on the part of the Legislative Council and the sub-committee which had been put in charge of recodification of the school laws, involving elementary, secondary and higher education. The Senator stated the sub-committee decided it would limit its efforts entirely to cleaning up the statutes, recodifying in four particular areas, and bringing in no substantive changes whatsoever; that any area needing changing would be introduced in the form of special bills or separate legislation in order not to jeopardize the passage of the recodified laws, as being presented in S.B. 1. It was the unanimous decision of the sub-committee that the recodification contain no substantial changes in the law as it appears today and Senate Bill 1 merely presents the law now in effect in considerably better shape. Senator James explained that Title 75 containing the school laws would be about 60% in size of the original Title 75, R.C.M., 1947, after the sub-committee shuffled things around and arranged the material contained therein in logical sequence and grouping everything into eight major categories.

"Recodification of School Laws, Elementary & Secondary Education, Higher Education", a report published by the Montana Legislative Council, is available to the public. In addition to re-organizing the items in a logical sequence, the sub-committee eliminated obsolete material. For example, a chapter introduced in 1939 by Senator James set up a state correspondence school and is not used at the present time for various reasons. There was also elimination of duplicated material in the statutes, as well as contradictory material. The sub-committee tried to interpret what the law expressly stated and also took into consideration the actual practice of recent years, and tried to write the law as it is now carried out. Senator James reported that if Senate Bill 1 could be rapidly passed as presented, and signed into law by the Governor, then subsequent bills could be introduced to amend the recodified laws. If Senate Bill 1 could be passed within the first ten days to two weeks of the 42nd Legislative Session, it would leave the remainder of the Session in which to offer amendments, and time, therefore, is of the essence. Senator James then expressed the gratitude of the sub-committee to James Kenny of the School Board Association, Lloyd Markell of the Montana Education Association, John Campbell of the State

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Superintendent of Public Instruction's office, and many others who were involved in this work. He then passed out the work sheets used by the sub-committee to show those in attendance how the actual bill was arrived at. In the lefthand column the existing law is shown, the middle column shows the law as it has been re-written, and the righthand column contains the reason therefor. Senator James stated that John Campbell of the State Department of Public Instruction made the format, which the sub-committee then worked word by word, section by section, and chapter by chapter.

The meeting was then turned back to Senator Cotton, who called for questions from the floor.

It was asked whether the recodification affected only Section 575, R.C.M., 1947, or if other sections were involved. Senator James answered that very few things outside of Title 75 had been covered, other than one or two sections at the very first. He reported that the sub-committee is very sincere that there are no substantive changes, and in the words of Mr. Kenny Senate Bill 1 is a "pure recodification" of the existing law. Senator James reported that the 27 to 30 worksheets used by the sub-committee, which had been passed around earlier for examination, would be available for study in the Education Committees of the House and Senate, and to all members when the bill is presented to the Committee of the Whole.

Senator Bollinger then asked the last time a recodification was done, or if it ever had been?

Senator James explained that an attempt had been made about four years ago, but that it had never actually been accomplished to his knowledge.

The question was raised as to how long this particular study had been going on. It was reported that it began in March, 1969, and that there were 13 meetings held of two to three days each. Every section was gone over sentence by sentence, word by word.

Representative Kvaalen asked if there were prepared amendments to be introduced as subsequent changes to the law as soon as Senate Bill 1 was passed.

Senator James answered yes, that bills are drafted and could be introduced upon passage and approval of Senate Bill 1. Thirty changes had originally been considered by the sub-committee and these had been screened down to ten on elementary and secondary education and two on the University level. These will be introduced for consideration after Senate Bill 1 and Senate Bill 2 have been disposed of. Senator James reported that with regard to amendment, it was determined that it would create havoc to try to amend the presently introduced bill and might jeopardize its passage. The sub-committee had conferred with Dolores Colburg, Superintendent of Public Instruction during the

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afternoon and later with the Governor, and everyone seems to be in accord with the effort of the committee. If there is some area of error, anything discovered could be corrected at the present Session by introduction of a bill amending the incorrect section.

Representative Warfield reported that a table of contents had been prepared to enable persons to find particular parts of the bill in which they are interested.

Senator Gilfeather asked whether there is a cross-index whereby a person could tell the old section which is being replaced by the introduced legislation. Senator Cotton stated that in some instances it had taken a little time to cross-check some of the sections which had been transferred to another section. However, there was not sufficient time to prepare such a cross-index on section numbers. John Campbell indicated the Legislative Council had a cross reference of old and new sections in that there is a copy of the recodification showing the present law and the recodification, and that copy gives the new section number together with the old number. Mr. Campbell reported he did not have time to prepare a cross-index otherwise. It was stated that John Campbell did most of the work in preparation of the recodification. The sub-committee then read his proposal, and if there were any changes to be made, he would take care of them and present them to the committee at their next meeting.

Senator Cotton asked Senator Rosell, Representative Brand and Mrs. Colburg if they had any comments. They replied no.

Senator Cotton called upon John Campbell to explain the organization of the recodification.

Mr. Campbell reported the recodification of the school laws, or Title 75, R.C.M., 1947, was divided into eight major areas and in the organization of the bill they appear as:

(1) Public Officials
(2) School Personnel
(3) Election
(4) Organization of Schools and Districts
(5) Finance
(6) School Services
(7) Sites and Facilities
(8) Miscellaneous

Category 1, public officials, covers four chapters: Chapter 56, State Board of Education; Chapter 57, Superintendent of Public Instruction; Chapter 58, County Superintendent; and Chapter 59, School District Board of Trustees.

Category 2, school personnel, covers Chapter 60, certification of teachers; Chapter 61, school personnel, which includes teachers, principals, and superintendents; Chapter 62, teachers retirement

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system; and Chapter 63, pupils, compulsory attendance and tuition.

Category 3, election, covers Chapter 64, school district elections.

Category 4, organization of schools and districts, is contained in Chapter 65, school districts; Chapter 66, organization of schools in each district.

Category 5, finance, covers Chapter 67, school budget system; Chapter 68, school financial administration; Chapter 69, general fund budget and foundation program; Chapter 70, school transportation; Chapter 71, school district bonding; Chapter 72, other school funds; and Chapter 73, miscellaneous financial.

Category 6, school services, covers Chapter 74, school calendar; Chapter 75, instruction, including accreditation and courses; Chapter 76, textbooks, having to do with licensing of textbook dealers; Chapter 77, vocational education; Chapter 78, special education; Chapter 79, traffic (or driver) education; Chapter 80, school food services, Chapter 81, community college districts.

Category 7 covers Chapter 82, school sites and facilities.

Category 8 covers Chapter 83, miscellaneous, which includes fines and penalties, oaths of office, fire drills, and school safety patrols.

The question was asked as to how to obtain a copy of the study referred to. It was reported that it had been provided by the Legislative Council. The Council initially planned to send the study to larger districts, but will also provide copies upon request.

Senator Cotton made note that the press hasn't published much on the introduction of Senate Bill 1. However, he hoped the information will be generally spread. It is also hoped that those who have prepared bills for amendment will revise them now in view of different section numbers contained in Senate Bill 1. Such amendments will have to be introduced within 17 days after start of the Session.

Representative Campbell questioned whether or not to leave those bills not relating to sections of Senate Bill 1, or whether they could be substituted later. Due to the indefinite time involved, they don't want to get caught short in being able to introduce amendments to the law presently in effect should Senate Bill 1 fail to pass. It was explained that should the bill pass, subsequent submittal of bills could be introduced prior to the 17th day in order to amend Senate Bill 1. Dee Cooper felt a bill should be put in to amend the law in effect at the time a given bill is submitted. Senator James replied that the sub-committee had talked about this situation and wondered what plan would be most workable. Possibly, all bills could be

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submitted in duplicate, one showing the old section numbers and one with the section numbers as contained in Senate Bill 1. The best way would be to get legislative cooperation to enable swift passage of the bill and thus allow sufficient time for submission of amendments to that bill. Senator James again reiterated that no legislator is taking a chance in voting for the bill since the bill can subsequently be amended if errors are found.

Senator Cotton then called upon Edward W. Nelson, Executive Secretary of the University System, to give a resume of Senate Bill No. 2. The work done on Senate Bill 2 was handled in approximately the same way as was done on Senate Bill 1, but on a much smaller scale. The same rules prevailed during the drafting of the bill, however. The work done on the bill was mainly at the School of Law at the University of Montana, under the guidance of Dean Gardiner Cromwell. The sub-committee tried to establish a logical framework. The bill establishes a system stating what the government's powers are relating to regents. The language was also changed in referring to the Montana law enforcement academy as used in describing the Montana University System. There are some bills prepared which will be submitted as amendments if Senate Bill 2 is adopted.

Senator Cotton then asked if there were any additional questions pertaining to Senate Bill 1. It was asked whether some of the people around interested in education will have a chance to look things over and whether there might be another special meeting held in order for them to attend.

Senator Cotton stated that he could only comment as chairman of the committee on education, and that he would hope that there would be enough favorable support that the bills could be started through legislative processes. However, he assured those present that the Senate Committee on Education will take a close look at both bills and he is sure the House Committee will have the same desire. As had been explained, there is always the possibility of amending both bills after they are presented. Should it appear that additional meetings are desired, the chairman is sure those responsible for such meetings will see that they are held. It is desired that the bill be passed as is and then any amendments may be introduced.

Representative Schoonover reported that one problem will arise around the first of April and this might be a bad time. Representative Warfield stated that there are really no changes in the present law except in how the elections are conducted, and that small changes will be disseminated by Mrs. Colburg's office and will be in sufficient time for school elections to be conducted the first part of April.

There being no additional comments, the meeting was adjourned by Chairman Cotton at 8:20 p.m.

Cotton

SENATOR COTTON, Chairman

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A meeting of the Education Committee was called to order at 11:45 a.m. in room 402 on January 6, 1971. Chairman Cotton opened the meeting, welcoming the two new members of the committee, and the secretary called the roll. Visitors were Intern David Irving of Glasgow, who is a student at Jamestown College is North Dakota, and Rosie Weber of the Legislative Council. Bills to be considered are Senate Bill 1 and Senate Bill 2.

Senate Bill #1. Senator James explained the bill briefly, commenting that all members were at the meeting last evening and had heard the discussion at that time. He stated that John Campbell, employed by the Department of Public Instruction at that time, had been of considerable help to the sub-committee since he is an expert in matters of this type and is very knowledgable in his field, having worked on similar projects in other states. He again emphasized that the intent of the law had been maintained in S.B. 1.

Senator Klindt expressed his concern that being an employee of the State Department, Mr. Campbell might have worked in some parts which would benefit the Department. However, many members of the committee reported that a close watch had been maintained, and they felt nothing of this sort had happened. Mr. Campbell is no longer with the State Department, and at no time did the Superintendent ever, in any way, attempt to influence wording of the bill; that complete cooperation from the Superintendent's office had been offered.

Although no longer employed by the Department, Mr. Campbell has pledged his support in whatever he might be able to do to assist the committee.

A discussion was then had relative to cross-indexing of the old section numbers with the numbers as now set out in S.B. 1. The Legislative Council does have a work copy showing such numbers, which would be available to the committee.

As a new member of the committee, Senator Carl asked if there had been a number of bills submitted over the past ten or fifteen years to revise different portions of the present law and that as a result of this, is this why the recodification is being proposed at this time? Senator James advised that such is the case every Session.

It was advised that if immediate passage of the bill could be obtained, there are still fifteen days from this date in which to submit desired amendments.

Senator Thiessen then moved that the committee recommend Senate Bill 1 DO PASS. His motion was seconded by Senator Brownfield, and the motion carried unanimously.

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Senate Bill #2. Senator James briefly described this bill, stating it was similar to S.B. 1, only dealing with higher education. Dean Cromwell had assisted in drafting the bill.

After discussion of the bill, Senator Mathers made a DO PASS motion, seconded by Senator Lynch, and the motion carried.

Discussion was then had on whether or not the committee should take action on any bills while people other than committee members are in the room. It was suggested that perhaps action could be delayed until the end of the meeting, and the committee could go into executive session at that time for voting purposes.

The meeting adjourned at 12:40 p.m.

Cotton

SENATOR COTTON, Chairman

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Bx/Fd No.

EDUCATION COMMITTEE

42nd Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
HJR 2	Teaching of consumer education in all public schools in Montana Cox et al	1/6	1/7		1/7	DO PASS	Signed by Gov. 3/1/71
SB 2	Montana Higher Education Code for the Codification & Revision of Laws Pertaining to Higher Education James	1/7	1/8		1/8	DO PASS	Signed by Gov. 1-18-71
SB 1	The Codification & general revision of laws relating to public schools James	1/7	1/8		1/8	DO PASS	Signed by Governor 1-26-71
HB 123	Relating to the Teaching Profession Cox et al	1/13	2/7		2/8	DO NOT PASS	Killed in Education 2/8/71
HB 163	Providing for an increase in the fine for abuse of teachers by parents and others Schoonover et al	1/13	1/14		1/14	DO PASS AS AMENDED	Signed by Governor 3/1/71

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January 8, 1970

The meeting of the Education Committee was called to order by Chairman Warfield at 11:45 a.m. with all but two members present.

The Chairman inquired as to whether or not there were any questions on bill SB'1 or 2. At this point the meeting was turned over to Vice-Chairman Kvaalen. As there were no questions, a motion was made for BE CONCURRED IN on SB #1.

A motion of BE CONCURRED IN was made on SB#2 and the motion was passed.

The meeting was adjourned at 12:05 p.m.

Bill Warfield

jw

INTRODUCED BILL

SENATE BILL NO. 1

INTRODUCED BY James

10-307, 75-101 through 75-107, 75-1201.1, 75-1202 through 75-1206, 75-1301 through 75-1308, 75-1311, 75-1312, 75-1313, 75-1315, 75-1316, 75-1317, 75-1319, 75-1320, 75-1401 through 75-1406, 75-1501 through 75-1510, 75-1512 through 75-1526, 75-1528 through 75-1535, 75-1601 through 75-1626, 75-1628 through 75-1632, 75-1632.1, 75-1633 through 75-1647, 75-1701 through 75-1706, 75-1708, 75-1709, 75-1710, 75-1712, 75-1713, 75-1713.1, 75-1714 through 75-1723, 75-1723.1, 75-1724 through 75-1730, 75-1801 through 75-1813, 75-1813.1, 75-1814 through 75-1823, 75-1825 through 75-1834, 75-1901 through 75-1905, 75-2001 through 75-2009, 75-2011 through 75-2017, 75-2101 through 75-2105, 75-2201 through 75-2215, 75-2301, 75-2302, 75-2303, 75-2401 through 75-2405, 75-2405.1, 75-2406 through 75-2411, 75-2501, 75-2506, 75-2511 through 75-2516, 75-2518 through 75-2522, 75-2701 through 75-2709, 75-2709.1, 75-2709.2, 75-2710 through 75-2716, 75-2801, 75-2802, 75-2901 through 75-2910, 75-3101, 75-3102, 75-3104 through 75-3125, 75-3201, 75-3202, 75-3203, 75-3308 through 75-3311, 75-3401 through 75-3414, 75-3501, 75-3503 through 75-3511, 75-3610, 75-3611, 75-3612, 75-3612.1, 75-3612.2, 75-3612.3, 75-3613 through 75-3624, 75-3701, 75-3706, 75-3709 through 75-3714, 75-3716 through 75-3720, 75-3722 through 75-3729, 75-3729.1, 75-3734 through 75-3742, 75-3801 through 75-3806, 75-3901 through 75-3946, 75-4001 through 75-4007, 75-4101, 75-4103 through 75-4113, 75-4115 through 75-4118, 75-4120, 75-4120.1, 75-4120.2, 75-4120.3, 75-4121 through 75-4144, 75-4146 through 75-4153, 75-4201 through 75-4228, 75-4230 through

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75-4242, 75-4244 through 75-4248, 75-4309 through 75-4323, 75-4413 through 75-4430, 75-4501 through 75-4506, 75-4511, 75-4512, 75-4514, 75-4515, 75-4516.1, 75-4516.2, 75-4517, 75-4518, 75-4518.1, 75-4519 through 75-4527, 75-4529 through 75-4535, 75-4537, 75-4538, 75-4540, 75-4601 through 75-4607, 75-4609 through 75-4614, 75-4701 through 75-4709, 75-4801 through 75-4809, 75-5001 through 75-5007, 75-5101, 75-5310 through 75-5317, 75-5401 through 75-5405, 75-5501 through 75-5508

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF LAWS RELATING TO PUBLIC SCHOOLS AND MAKING THIS ACT EFFECTIVE UPON PASSAGE AND APPROVAL; AMENDING SECTION 10-307, R.C.M., 1947, AND REPEALING SECTIONS 75-101 THROUGH 75-107, 75-1201.1, 75-1202 THROUGH 75-1206, 75-1301 THROUGH 75-1308, 75-1311, 75-1312, 75-1313, 75-1315, 75-1316, 75-1317, 75-1319, 75-1320, 75-1401 THROUGH 75-1406, 75-1501 THROUGH 75-1510, 75-1512 THROUGH 75-1526, 75-1528 THROUGH 75-1535, 75-1601 THROUGH 75-1626, 75-1628 THROUGH 75-1632, 75-1632.1, 75-1633 THROUGH 75-1647, 75-1701 THROUGH 75-1706, 75-1708, 75-1709, 75-1710, 75-1712, 75-1713, 75-1713.1, 75-1714 THROUGH 75-1723, 75-1723.1, 75-1724 THROUGH 75-1730, 75-1801 THROUGH 75-1813, 75-1813.1, 75-1814 THROUGH 75-1823, 75-1825 THROUGH 75-1834, 75-1901 THROUGH 75-1905, 75-2001 THROUGH 75-2009, 75-2011 THROUGH 75-2017, 75-2101 THROUGH 75-2105, 75-2201 THROUGH 75-2215, 75-2301, 75-2302, 75-2303, 75-2401 THROUGH 75-2405, 75-2405.1, 75-2406 THROUGH 75-2411, 75-2501, 75-2506, 75-2511 THROUGH 75-2516, 75-2518 THROUGH 75-2522, 75-2701 THROUGH 75-2709, 75-2709.1, 75-2709.2, 75-2710 THROUGH 75-2716, 75-2801, 75-2802, 75-2901 THROUGH 75-2910, 75-3101, 75-3102, 75-3104 THROUGH 75-3125, 75-3201, 75-3202, 75-3203, 75-3308 THROUGH

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75-3311, 75-3401 THROUGH 75-3414, 75-3501, 75-3503 THROUGH 75-3511, 75-3610, 75-3611, 75-3612, 75-3612.1, 75-3612.2, 75-3612.3, 75-3613 THROUGH 75-3624, 75-3701, 75-3706, 75-3709 THROUGH 75-3714, 75-3716 THROUGH 75-3720, 75-3722 THROUGH 75-3729, 75-3729.1, 75-3734 THROUGH 75-3742, 75-3801 THROUGH 75-3806, 75-3901 THROUGH 75-3946, 75-4001 THROUGH 75-4007, 75-4101, 75-4103 THROUGH 75-4113, 75-4115 THROUGH 75-4118, 75-4120, 75-4120.1, 75-4120.2, 75-4120.3, 75-4121 THROUGH 75-4144, 75-4146 THROUGH 75-4153, 75-4201 THROUGH 75-4228, 75-4230 THROUGH 75-4242, 75-4244 THROUGH 75-4248, 75-4309 THROUGH 75-4323, 75-4413 THROUGH 75-4430, 75-4501 THROUGH 75-4506, 75-4511, 75-4512, 75-4514, 75-4515, 75-4516.1, 75-4516.2, 75-4517, 75-4518, 75-4518.1, 75-4519 THROUGH 75-4527, 75-4529 THROUGH 75-4535, 75-4537, 75-4538, 75-4540, 75-4601 THROUGH 75-4607, 75-4609 THROUGH 75-4614, 75-4701 THROUGH 75-4709, 75-4801 THROUGH 75-4809, 75-5001 THROUGH 75-5007, 75-5101, 75-5310 THROUGH 75-5317, 75-5401 THROUGH 75-5405, 75-5501 THROUGH 75-5508, R.C.M., 1947."

It is the intent of the legislative assembly that all non-amendatory sections of this bill be codified in Title 75, Revised Codes of Montana, 1947, with the subject matter under each heading assigned to a separate chapter of that title.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 10-307, R.C.M., 1947, is amended to read as follows:

"10-307. Other conditions of indenture. Every indenture shall also contain an agreement, on the part of the person to whom such child shall be bound, that he will cause such

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child to ~~be instructed to read and write, and to be taught the general rules of arithmetic, or, in lieu thereof, that he will send such child to school three months of each year of the period of indenture.~~ attend school under the compulsory attendance provisions of title 75, R.C.M., 1947."

Section 2. Section 75-5601. Definition. As used in this title, unless the context clearly indicates otherwise, "board of education" means the state board of education established under the provisions of section 11, article XI of the constitution of the state of Montana.

Section 3. Section 75-5602. Membership. The board of education shall have eleven (11) members, among whom the governor, the attorney general, and the superintendent of public instruction shall serve as ex officio members. The remaining eight (8) members shall be appointed by the governor with the advice and consent of the senate. Such appointments shall be subject to the following limitations: (1) they shall be equally divided among the congressional districts of the state of Montana;

(2) not more than four (4) shall be affiliated with the same political party or organization;

(3) their terms shall be eight (8) years and, except in the case of a vacancy, only one (1) member shall be appointed each year; and

(4) when a vacancy occurs, the governor shall appoint a member for the remainder of the term of the incumbent, and such appointments to fill vacancies shall preserve the balance required by subsections (1) and (2) above.

An appointed member of the board of education shall take and subscribe to the constitutional oath of office prescribed

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for civil officers and file it with the secretary of state before he shall have the capacity to act as a member of the board. He shall serve as a member of the board of education until his successor has been appointed and qualified.

Section 4. Section 75-5603. Officers and quorum. The governor shall serve as the president of the board of education and the superintendent of public instruction shall serve as its secretary. The state treasurer shall act as treasurer to the board. In addition, the board may select an appointed member to chair its meetings in the absence of the governor.

A majority of the board of education membership shall constitute a quorum for the transaction of business.

Section 5. Section 75-5604. Meetings. The board of education shall hold at least quarterly meetings on the second Monday of April, July, September and December. Such meetings shall be held at the state capitol or at a unit of the Montana university system.

Special meetings of the board of education may be called by the board, or by the president and secretary of the board, at any time and place, if in their judgment necessity requires such a meeting.

The secretary of the board shall notify all members of all regular and special meetings.

Section 6. Section 75-5605. Per diem and expenses. Each appointed member of the board of education shall receive twenty dollars ($20) per day and his necessary and actual expenses incurred for each day in attendance at the meetings of such board or in the performance of any duty or services as a member of such board. All such expenses and per diem shall be paid from the appropriations made by the legislative

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assembly for the support of the board of education or the Montana university system, whichever is applicable.

Section 7. Section 75-5606. Ex officio regents. The board of education shall serve ex officio as the regents of the Montana university system. As the regents, they shall have the power and shall perform all duties prescribed by the higher education provisions of this title. All such duties shall be performed in the name of the regents of the Montana university system.

Section 8. Section 75-5607. Powers and duties. The board of education shall have the power and it shall be its duty to: (1) effect an orderly and uniform system of teacher certification and for the issuance of an emergency authorization of employment by adopting the policies prescribed by sections 75-6002 and 75-6011;

(2) consider the suspension or revocation of teacher certificates, and appeals from the denial of teacher certification in accordance with the provisions of section 75-6010;

(3) administer and order the distribution of state equalization aid in accordance with the provisions of section 75-6917;

(4) adopt and enforce policies to provide uniform standards and regulations for the design, construction, and operation of school buses in accordance with the provisions of section 75-7004;

(5) approve or disapprove a reduction of the number of hours in a district's school day in accordance with the provisions of section 75-7403;

(6) adopt policies prescribing the conditions when school may be conducted on Saturday, and the types of pupil-

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instruction-related days and approval procedure for such days in accordance with the provisions of sections 75-7404 and 75-7405;

(7) adopt standards of accreditation and establish the accreditation status of every school in accordance with the provisions of sections 75-7501 and 75-7502;

(8) establish the scope of conservation education in the schools in accordance with the provisions of section 75-7509;

(9) approve or disapprove educational media selected by the superintendent of public instruction for the educational media library in accordance with the provisions of section 75-7511;

(10) as the governing board of the state of Montana for vocational education, adopt the policies prescribed by and in accordance with the provisions of section 75-7702;

(11) consider applications for post-secondary vocational-technical center designation in accordance with the provisions of section 75-7707;

(12) for the purposes of post-secondary vocational-technical centers, approve or disapprove programs and budgets, direct the distribution of monies in support of such budgets, determine tuition rates and fees, enter into lease agreements or real property purchases in accordance with the post-secondary vocational-technical center provisions of the vocational education chapter of this title;

(13) adopt policies for the conduct of special education in accordance with the provisions of section 75-7802;

(14) supervise community college districts in accordance with the provisions of sections 75-8103 and 75-8119;

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(15) call an election, determine the results of the election, order and implement the organization of a community college district in accordance with the community college districts chapter of this title; and

(16) perform any other duty prescribed from time to time by this title or any other act of the legislature.

Section 9. Section 75-5608. Other powers and duties. The board of education shall have the power and it shall be its duty to: (1) adopt rules and regulations, not inconsistent with the constitution or laws of the state of Montana, necessary for its own government or the proper execution of the powers and duties conferred upon it by law;

(2) adopt and use an official seal to authenticate its official acts;

(3) keep a record of its proceedings; and

(4) submit a written report to the governor of its activities during the immediately preceding fiscal biennium in accordance with the provisions of section 82-4002, R.C.M., 1947.

Section 10. Section 75-5701. Definition. As used in this title, unless the context clearly indicates otherwise, "superintendent of public instruction" means the state government official designated as a member of the executive department by section 1 of article VII of the constitution of Montana.

Section 11. Section 75-5702. Election and qualification. A superintendent of public instruction for the state of Montana shall be elected by the qualified electors of the state at the general election preceding the expiration of the term of office of the incumbent.

Any person shall be qualified to assume the office of

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superintendent of public instruction who: (1) has attained the thirtieth anniversary of his birth date at the time of his election;

(2) has resided within the state for the two (2) years next preceding his election;

(3) holds at least a bachelor's degree from any unit of the Montana university system or from an institution recognized as equivalent by the board of education for teacher certification purposes; and

(4) otherwise possesses the qualifications for such office which are required by the constitution of the state of Montana.

Section 12. Section 75-5703. Term, oath and vacancy. The superintendent of public instruction shall hold office at the seat of government for the term of four (4) years. He shall assume office on the first Monday of January following his election and shall hold the office until his successor has been elected and qualified. Any person elected as the superintendent of public instruction shall take the oath of a civil officer.

If the office of superintendent of public instruction becomes vacant, it shall be filled in the manner prescribed by the constitution of the state of Montana.

Section 13. Section 75-5704. Staff. The superintendent of public instruction shall have the power to employ, organize, and administer a staff of personnel to assist him in the administration of the duties and services of the office. In organizing his staff, the superintendent of public instruction shall employ: (1) a supervisor of physical education who is a graduate of an accredited institution of higher education

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with a master's degree in physical education;

(2) a professional staff for the state supervision and administration of vocational education in accordance with the provisions of section 75-7703; and

(3) a special education supervisor who is a graduate of an accredited institution of higher education with a master's degree in a field of special education for the mentally retarded or physically handicapped, and who has not less than two years experience in special education.

Section 14. Section 75-5705. Discretionary staff. In addition to the positions of employment listed in section 75-5704, the superintendent of public instruction may employ:

(1) one (1) or more assistant superintendents, one of whom may be designated, with the approval of the board of education, as assistant superintendent for vocational education;

(2) a high school supervisor who is the holder of a class 3 teacher certificate with a district superintendent endorsement;

(3) an elementary supervisor who is the holder of a valid teacher certificate;

(4) a competent person to develop economy and efficiency in school transportation, and to otherwise supervise the transportation program;

(5) a music supervisor who is a graduate of an accredited institution of higher education in music education and who has not less than five (5) years of teaching experience;

(6) an educational media supervisor who is a graduate of an accredited institution of higher education and who has experience in the field of educational media; and

(7) any other supervisors or assistants as may be re-

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quired to carry out the duties of his office.

Section 15. Section 75-5706. Administrative powers and duties. In administering the affairs of his office, the superintendent of public instruction shall have the power and it shall be his duty to: (1) keep a record of his official acts and all documents applicable to the administration of the office, preserve all official reports submitted to him for the period required by law, and surrender them to his successor at the expiration of his term;

(2) preserve all books, educational media, instructional equipment and any other articles of educational interest and value which come into his possession, and surrender them to his successor at the expiration of his term;

(3) cause the printing and distribution of all reports and forms necessary for the proper conduct of business by a district or school in the manner prescribed by the provisions of this title;

(4) provide and keep an official seal of the superintendent of public instruction by which his official acts shall be authenticated;

(5) whenever he deems necessary but not more than once every four (4) years, cause the printing of a complete and updated volume of the school laws of the state which shall be offered and sold at cost of the printing and shipping to any school official or other person;

(6) whenever a replacement volume is not printed under the provisions of subsection (5), cause the printing of a cumulative supplement to the most recent volume of school laws immediately after the conclusion of any session of the legislative assembly at which new school laws or amendments to the

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school laws were adopted. It shall be offered and sold at cost of the printing and shipping to any school official or other person;

(7) submit a written report to the governor of his activities during the immediately preceding fiscal biennium in accordance with the provisions of section 82-4002, R.C.M., 1947;

(8) if deemed necessary, publish a biennial report of the superintendent of public instruction, as prescribed by section 82-4002, R.C.M., 1947;

(9) counsel with and advise county superintendents on matters involving the welfare of the schools and, when requested, shall give a county superintendent a written answer to any question concerning school law;

(10) call an annual meeting of the county superintendents when he deems it advisable;

(11) as far as he shall find it practicable, address public assemblies on subjects pertaining to education in Montana; and

(12) faithfully work in all practical and possible ways for the welfare of the public schools of the state.

Section 16. Section 75-5707. Powers and duties. The superintendent of public instruction shall have the general supervision of the public schools and districts of the state, and he shall have the power and shall perform the following duties or acts in implementing and enforcing the provisions of this title: (1) resolve any controversy resulting from the proration of joint costs by a joint board of trustees under the provisions of section 75-5929;

(2) issue, renew or deny teacher certification and emer-

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gency authorizations of employment and give notice of teacher certification suspension or revocation proceedings to be conducted by the board of education in accordance with the provisions of the teacher certification chapter of this title;

(3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of section 75-6318;

(4) pay the tuition for the residents of the Montana children's center at Twin Bridges high school in accordance with the provisions of section 75-6319;

(5) serve on the teachers retirement board in accordance with the provisions of section 75-6203;

(6) prescribe absentee voting forms and rules in accordance with the provisions of section 75-6416;

(7) approve or disapprove the orders of a high school boundary commission in accordance with the provisions of section 75-6528;

(8) approve or disapprove the opening or reopening of a school in accordance with the provisions of sections 75-6602, 75-6603, 75-6604, or 75-6605;

(9) approve or disapprove school isolation within the limitations prescribed by section 75-6608;

(10) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of section 75-6702, and prescribe the school budget format in accordance with the provisions of section 75-6704 and 75-7209;

(11) establish a system of communication for calculating joint district revenues in accordance with the provisions of section 75-6721;

(12) approve or disapprove the adoption of a district's emergency budget resolution under the conditions prescribed

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in section 75-6725, and publish rules and regulations for an application for additional state aid for an emergency budget in accordance with the approval and disbursement provisions of section 75-6729;

(13) generally supervise the school financial administration provisions as prescribed by section 75-6802;

(14) appoint the responsible county officials for the performance of the budgeting duties and the financial administration duties for a joint district in accordance with the provisions of sections 75-6720 and 75-6803;

(15) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of subsection (5) of section 75-6806, and the annual report forms to enable the county superintendents to report to the superintendent of public instruction in accordance with the provisions of section 75-5809;

(16) approve, disapprove or adjust an increase of the average number belonging (ANB) in accordance with the provisions of sections 75-6903 and 75-6904;

(17) distribute state interest and income monies and state equalization aid in support of the foundation program in accordance with the provisions of sections 75-6908, 75-6918, and 75-6919;

(18) estimate the statewide per census child payment for the state interest and income monies and the state equalization level for the foundation program in accordance with the provisions of sections 75-6911 and 75-6920;

(19) distribute state impact aid in accordance with the provisions of section 75-6925;

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(20) provide for the uniform and equal provision of transportation by performing the duties prescribed by the provisions of section 75-7005;

(21) approve or disapprove an adult education program for which a district proposes to levy a tax in accordance with the provisions of section 75-7207;

(22) request, accept, deposit and expend federal monies in accordance with the provisions of section 75-7303;

(23) authorize the use of federal monies for the support of an interlocal cooperative agreement in accordance with the provisions of sections 75-7306 and 75-7307;

(24) prescribe the form and contents of and approve or disapprove interstate contracts in accordance with the provisions of section 75-7308;

(25) approve or disapprove the conduct of school on a Saturday or on pupil-instruction-related days in accordance with the provisions of sections 75-7404 and 75-7405;

(26) recommend standards of accreditation for all schools to the board of education, and evaluate compliance with such standards and recommend accreditation status of every school to the board of education in accordance with the provisions of sections 75-7501 and 75-7502;

(27) collect and maintain a file of curriculum guides and assist schools with instructional programs in accordance with the provisions of sections 75-7505 and 75-7506;

(28) recommend the scope of conservation education in the schools to the board of education in accordance with the provisions of section 75-7509;

(29) establish and maintain a library of visual, aural, and other educational media in accordance with the provisions

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of section 75-7511;

(30) license textbook dealers, maintain a textbook library, initiate prosecution of textbook dealers violating the law, and supply a textbook listing in accordance with the provisions of the textbooks chapter of this title;

(31) administer and perform the duties as the executive officer of the board of education for vocational education in accordance with the provisions of section 75-7703;

(32) consider applications for the designation of a post-secondary vocational-technical center in accordance with the provisions of section 75-7707;

(33) establish a fund for the handling of post-secondary vocational-technical center fees in accordance with the provisions of section 75-7714;

(34) supervise and coordinate the conduct of special education in the state in accordance with the provisions of section 75-7803;

(35) administer the traffic education program in accordance with the provisions of section 75-7904;

(36) administer the school fund services program in accordance with the provisions of sections 75-8002, 75-8003, and 75-8004;

(37) determine the result of an organization election for a community college district and the related election of trustees in accordance with the provisions of section 75-8112;

(38) review school building plans and specifications in accordance with the provisions of section 75-8206;

(39) publish and distribute fire danger books in accordance with the provisions of section 75-8309;

(40) prescribe the method of identification and signals

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to be used by school safety patrols in accordance with the provisions of section 75-8310; and

(41) perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of education.

Section 17. Section 75-5708. School census and interest and income distribution. When the superintendent of public instruction receives the school census and under-six-years-old census reports from a county superintendent, he shall examine both census reports to determine any errors or duplicate entries between districts, especially districts located in separate counties. Whenever an error or duplication is discovered, he shall notify the county superintendent or county superintendents of such error or duplication. Each county superintendent shall explain the inclusion of such child on a district's report and the superintendent of public instruction shall include or delete the name of the child on the basis of the explanation. If a county superintendent does not reply in less than fifteen (15) days, the superintendent of public instruction shall delete the name of the child he has questioned.

After the superintendent of public instruction has completed a review of all the district census reports and tabulated the statewide total of these reports, he shall distribute the state interest and income monies on the basis of the school census reports of the children who are six (6) years of age or older but who have not yet reached their twenty-first birthday under the provisions of sections 75-6908 and 75-5936.

Section 18. Section 75-5709. Controversy appeal. The

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superintendent of public instruction shall decide matters of controversy when they are appealed from: (1) a decision of a county superintendent rendered under the provisions of section 75-5811; or

(2) a decision of a county transportation committee rendered under the provisions of section 75-7015.

The superintendent of public instruction shall make his decision on the basis of the transcript of the fact-finding hearing conducted by the county superintendent or county transportation committee, documents presented at the hearing, affidavits, verified statements, or sworn testimony as to the facts in issue. The decision of the superintendent of public instruction shall be final, subject to adjudication or the proper legal remedies in the state courts.

In order to establish a uniform method of hearing and determining matters of controversy arising under this title, the superintendent of public instruction shall prescribe and enforce rules of practice and regulations for the conduct of hearings and the determination of appeals by all school officials of the state.

Section 19. Section 75-5801. Definition. As used in this title, unless the context clearly indicates otherwise, "county superintendent" means the county government official designated as the school officer of the county by section 5 of article XVI of the constitution of Montana.

Section 20. Section 75-5802. Election and qualification. A county superintendent shall be elected in each county of the state unless a county manager form of government has been organized in the county. The county superintendent shall be elected at the general election preceding

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the expiration of the term of office of the incumbent.

Any person shall be qualified to assume the office of the county superintendent who: (1) possesses the qualifications required by the constitution of the state of Montana;

(2) holds a valid teacher certificate issued by the superintendent of public instruction; and

(3) has not less than three (3) years of successful teaching experience.

Section 21. Section 75-5803. Term, oath and vacancy. The county superintendent shall hold office for a term of four (4) years. He shall assume office on the first Monday of January following his election and shall hold the office until his successor has been elected and qualified.

Any person elected as the county superintendent shall take the oath or affirmation of office and shall give an official bond, as required by law.

If the office of county superintendent becomes vacant, the board of county commissioners shall appoint a replacement to fill the vacancy. Such replacement shall serve until the next regular general election when a person shall be elected to serve the remainder of the initial term, if there be any remaining term.

Section 22. Section 75-5804. Office costs and staff. The board of county commissioners shall supply the county superintendent with suitable office space and office supplies. The county superintendent shall be paid from the county general fund all necessary traveling expenses that he actually incurs in discharging his duties after such expenses have been audited by the board of county commissioners.

Upon the county superintendent's recommendation of a can-

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didate, the board of county commissioners may appoint such candidate to the position of chief deputy county superintendent. The commissioners also may appoint deputies and assistants for the county superintendent. The commissioners shall fix the salaries of the personnel prescribed by this section at ninety per cent (90%) or less of the salary of the county superintendent.

Section 23. Section 75-5805. Powers and duties. The county superintendent shall have general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts: (1) determine, establish and re-establish trustee nominating districts, and fill additional trustee position vacancies in accordance with the provisions of sections 75-5903, 75-5904, and 75-5905;

(2) administer and file the oaths of members of the trustees of the districts in his county in accordance with the provisions of section 75-5916;

(3) fill by appointment any trustee position vacancies when required under the provisions of section 75-5918;

(4) register the teacher certificate or emergency authorization of employment of any person employed in the county as a teacher, principal, or district superintendent in accordance with the provisions of section 75-6106;

(5) act on each tuition application submitted to him in accordance with the provisions of sections 75-6313, 75-6314, 75-6315 and 75-6316, and transmit the tuition information required by section 75-6317;

(6) file a copy of the audit report for a district or a school's extracurricular fund in accordance with the pro-

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visions of sections 75-6807 or 75-6323;

(7) classify districts in accordance with the provisions of section 75-6503;

(8) keep a transcript and reconcile the district boundaries of the county in accordance with the provisions of section 75-6504;

(9) fulfill all responsibilities assigned to him under the provisions of this title regulating the organization, alteration or abandonment of districts;

(10) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with sections 75-6538 and 75-6539;

(11) estimate the average number belonging (ANB) of an opening school in accordance with the provisions of sections 75-6602, 75-6603, 75-6604, or 75-6606;

(12) process and, when required, act on school isolation applications in accordance with the provisions of section 75-6608;

(13) complete the budgets, compute the budgeted revenues and tax levies, give notices of the budget meetings, file final and emergency budgets and fulfill such other responsibilities assigned to him under the provisions of this title regulating school budgeting systems;

(14) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of section 75-6804;

(15) quarterly, unless otherwise provided by law, order the county treasurer to apportion state monies, county school monies and any other school monies subject to apportionment in accordance with the provisions of sections 75-

6909, 75-6914, 75-6919, 75-6921, 75-7022, 75-7023, or 75-6805;

(16) act on any request to transfer average number belonging (ANB) in accordance with the provisions of subsection (3) of section 75-6903;

(17) calculate the estimated, budgeted general fund sources of revenue in accordance with the provisions of section 75-6911 and 75-6920, and the other general fund revenue provisions of the general fund chapter of this title;

(18) compute the revenues and the district and county levy requirements for each fund included on each district's final budget, and report such computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds chapters of this title;

(19) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of sections 75-7003, 75-7020, or 75-7022;

(20) for districts which do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of sections 75-7519 or 75-7603;

(21) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of section 75-7607, and otherwise comply with the textbook dealer provisions of this title;

(22) act on district requests to allocate federal monies for indigent children for school food services in accordance with the provisions of section 75-8006; and

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(23) perform any other duty prescribed from time to time by this title, any other act of the legislature, the policies of the board of education, or the rules and regulations of the superintendent of public instruction.

Section 24. Section 75-5806. Additional positions. In his capacity as county superintendent, he also shall serve as: (1) the county superintendent for a joint district under the conditions prescribed by sections 75-6720, 75-6803, and 75-6106;

(2) the clerk of the board of school budget supervisors, as prescribed by section 75-6703;

(3) the chairman of the county transportation committee, as prescribed by section 75-7014;

(4) a member of the high school boundary commission of the county, as prescribed by section 75-6521;

(5) an attendance officer for a district under the conditions prescribed by section 75-6305; and

(6) the clerk of a joint board of trustees under the conditions prescribed by section 75-5928.

Section 25. Section 75-5807. Other powers and duties. The county superintendent shall have the power and it shall be his duty to: (1) administer the oath of office to trustees without the receipt of pay for administering the oath;

(2) keep a record of his official acts, preserve all reports submitted to him under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender such records, books, supplies and equipment to his successor;

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(3) within ninety (90) days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

(a) the total of the cash balances of all funds maintained by the district at the beginning of the year,

(b) the total receipts that were realized in each fund maintained by the district,

(c) the total expenditures that were made from each fund maintained by the district, and

(d) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and

(4) hold meetings for the members of the trustees from time to time at which matters for the good of the districts shall be discussed.

Section 26. Section 75-5808. Assist trustees with school supervision. The county superintendent shall assist the trustees of any district that does not employ a district superintendent or principal with the supervision of their schools by: (1) visiting each school of the district at least once a school year while pupil instruction is being conducted to observe the instructional methods, ability of the teacher, progress and discipline of the pupils, and the general conditions of the school;

(2) special visits to the schools on request of the trustees;

(3) advising and directing teachers on instruction, pupil discipline, and other duties of the teacher;

(4) consulting with the trustees on all school matters

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that may be found during the observation of the school or may otherwise come to the attention of the county superintendent.

Section 27. Section 75-5809. Annual report and receipt. The county superintendent of each county shall submit an annual report to the superintendent of public instruction not later than the first day of September. Such report shall be completed on the forms supplied by the superintendent of public instruction which shall require the reporting of: (1) the final budget information for each district of the county, as prescribed by subsection (1) of section 75-6719;

(2) the financial activities of each district of the county for the immediately preceeding school fiscal year as provided by the trustees annual report to the county superintendent under the provisions of subsection (5) of section 75-6806;

(3) the pupil information for each district provided the county superintendent under the provisions of subsection (4) of section 75-6108 or subsection (7) of section 75-6113; and

(4) any other information that may be requested by the superintendent of public instruction which is within his authority prescribed by this title.

When the superintendent of public instruction receives a complete annual report from the county superintendent, he shall immediately issue a receipt for the annual report to such county superintendent. The county superintendent shall present the receipt to the board of county commissioners and, if the county commissioners do not receive the receipt, they shall not pay the county superintendent's salary for the last

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two (2) months of the calendar year until the receipt is presented to them.

Section 28. Section 75-5810. School census review, transmittal and receipt. When the county superintendent of any county receives the school census and the under-six-years-old census from a district as prescribed by section 75-5937, he shall examine both census reports to determine any errors or duplications with other districts of the county. In order to facilitate this examination the county superintendent shall maintain and update with each school census and under-six-years-old census an alphabetical card index of each family with each child of the family listed on the family card for all the families of the county.

The county superintendent shall examine the school census and under-six-years-old census reports of each district for:

(1) duplication of the same child's name on the reports of separate districts;

(2) fictitious names on the reports;

(3) the names of children who are too old or too young for inclusion on the report on which he is listed; or

(4) names of children who were not residents of the district on the first day of October in accordance with the terms of residence prescribed by section 75-5936.

Whenever the county superintendent's examination indicates a duplication or other error in completing the reports, he shall notify the reporting district or districts. Each district shall explain the inclusion of such children on its reports and the county superintendent shall include or delete the name of each such child on the basis of the explanation. If a district does not reply in less than fifteen (15) days, the

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county superintendent shall delete the names of the children that he has questioned.

After the county superintendent has completed his examination of each district's school census and under-six-years-old census reports and not later than the first day of December, he shall submit such reports to the superintendent of public instruction. The superintendent of public instruction shall immediately issue a receipt for the reports to the county superintendent when a complete report for each district of the county is received, and the county superintendent shall not be paid his salary after the first day of December until such receipt is presented to the board of county commissioners.

Section 29. Section 75-5811. Controversy appeals and hearings. The county superintendent shall hear and decide all matters of controversy arising in his county as a result of decisions of the trustees of a district in the county. Furthermore, he shall hear and decide all controversies arising under: (1) section 75-6315 or 75-6316 relating to the approval of tuition applications;

(2) section 75-6104 relating to the termination of services of a tenure teacher; or

(3) any other provision of this title for which a procedure for resolving controversies is not expressly prescribed.

The county superintendent shall hear the appeal and take testimony in order to determine the facts related to the controversy and may administer oaths to the witnesses that testify at the hearing. He shall prepare a written transcript of the hearing proceedings. The decision on the matter of controversy which is made by the county superintendent shall

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be based upon the facts established at such hearing.

The decision of the county superintendent may be appealed to the superintendent of public instruction and, if it is appealed, the county superintendent shall supply a transcript of the hearing and any other documents entered as testimony at the hearing to the superintendent of public instruction.

Section 30. Section 75-5901. Definition. As used in this title, unless the context clearly indicates otherwise, "trustees" means the governing board of a district. The trustees shall be composed of the number of trustee positions prescribed for a district by section 75-5902. When exercising the powers and performing the duties of trustees, the members shall act collectively and only at a regular or a properly called special meeting.

Section 31. Section 75-5902. Number of trustee positions. The number of trustee positions in a district shall vary in the following manner according to the type of district:

(1) The number of trustee positions in each elementary district shall vary according to the district's classification, as established by section 75-6503;

(a) there shall be seven (7) trustee positions in a first class elementary district;

(b) there shall be five (5) trustee positions in a second class elementary district; or

(c) there shall be three (3) trustee positions in a third class elementary district.

(2) The trustees of a high school district, except a high school district operating a county high school, shall be composed of:

(a) the trustees of the elementary district where the

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high school building is located, or, if there is more than one (1) elementary district where high school buildings are located, the trustees of the elementary district designated by the high school boundary commission; and

(b) the additional trustee positions determined in accordance with section 75-5903.

(3) The trustees of a high school district operating a county high school shall be composed of seven (7) trustee positions.

Section 32. Section 75-5903. Request and determination of number of high school district additional trustee positions. As provided in subsection (2)(b) of section 75-5902, each high school district, except a high school district operating a county high school, may have additional trustee positions when the trustees of a majority of the elementary districts with territory located in the high school district, but without representation on the high school district trustees under the provision of subsection (2)(a) of section 75-5902, request the establishment of such additional trustee positions.

A request for additional trustee positions shall be made to the county superintendent by a resolution of the trustees of each elementary district. When a resolution has been received from a majority of the elementary districts without representation on the high school district trustees, the county superintendent shall determine the number of additional trustee positions for the affected high school district in accordance with the following procedure: (1) The taxable valuation of the elementary district which has its trustees placed on the high school trustees shall be divided by the number of positions on the trustees of such elementary dis-

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trict to determine the taxable valuation per trustee position.

(2) The taxable valuation used for the calculation in subsection (1) above shall be subtracted from the taxable valuation of the high school district to determine the taxable valuation of the territory of the high school district without representation on the high school district trustees.

(3) The taxable valuation determined in subsection (2) above shall be divided by the taxable valuation per trustee position calculated in subsection (1) above. The resulting quotient shall be rounded off to the nearest whole number.

The number determined in subsection (3) above shall be the number of additional trustee positions except that the number of additional trustee positions shall not exceed four (4) in a first or second class high school district or two (2) in a third class high school district that is not eligible for an additional trustee position at large.

The county superintendent shall designate a third additional trustee position in a third class high school district when two-thirds (2/3) or more of the high school enrollment of the high school district and two-thirds (2/3) or more of the taxable valuation of the high school district is located outside of the elementary district which has its trustees placed on the high school district trustees. The person who fills such additional trustee position shall be elected at large from the entire high school district.

Section 33. Section 75-5904. Establishment and purpose of trustee nominating districts. After the county superintendent has determined the number of additional trustee positions, he shall establish trustee nominating districts in

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that portion of the high school district without representation on the high school trustees. There shall be one (1) trustee nominating district for each additional trustee position, except the additional trustee at large. Unless it is impossible, the trustee nominating district boundaries shall be coterminous with elementary district boundaries.

The purpose of the trustee nominating district shall be to establish a representative district for the nomination and election of a resident of such district to be an additional member of the trustees of a high school district. The electors qualified to vote in the high school district under the provisions of section 75-6410 and who reside in the trustee nominating district shall be the only electors who may vote for the additional trustee representing such district. They also shall be permitted to vote for a trustee position at large, if there is one, but for no other high school trustee position.

Any additional trustee position established under the provisions of this section shall be filled in a manner prescribed under the provisions of section 75-5918. Each additional trustee position filled by appointment under this section shall be subject to election at the next regular school election.

Section 34. Section 75-5905. Redetermine additional trustee positions and subsequent adjustments. At any time there is a revision of the taxable valuation of the high school district or the elementary districts within it, or there is a reclassification of the elementary district which has its trustees placed on the high school district trustees, the county superintendent shall redetermine the number of addi-

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tional trustee positions for the high school district in accordance with section 75-6406. If there is a change in the allowable number of additional trustee positions, the county superintendent shall re-establish the trustee nominating districts in accordance with section 75-5904. If the number of additional trustee positions is less than the previous number of positions, the county superintendent shall designate which present additional positions shall terminate upon his order re-establishing the trustee nominating districts. If the number of additional trustee positions is more than the previous number of positions, such additional trustee positions shall be filled in the manner prescribed under the provisions of section 75-5918. Each additional trustee position filled by appointment under this section shall be subject to election at the next regular school election.

Section 35. Section 75-5906. Election and term of office. Every trustee position prescribed by this title, except the trustee positions of a high school district operating a county high school, shall be subject to election and the term of office for each position shall be three (3) years unless it is otherwise specifically prescribed by this title.

Section 36. Section 75-5907. Legislative intent to elect less than majority of trustees. It is the intention of the legislature that the terms of a majority of the trustee positions of any district with elected trustees shall not regularly expire and be subject to election on the same regular school election day. Therefore, in elementary districts, there shall not be more than three (3) trustee

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positions in first class districts, two (2) trustee positions in second class districts, or one (1) trustee position in third class districts regularly subject to election at the same time. In high school districts there shall not be more than two (2) additional trustee positions in first or second class districts, or more than one (1) in third class districts regularly subject to election at the same time.

While it is the intention of the legislature that the terms of a majority of trustees of any district shall not regularly expire and be subject to election at the same time, it is recognized that the following circumstances, relating to the terms of trustees appointed to newly created positions or to positions vacated by death, resignation or operation of law, may lead to a subsequent school election in which a majority of trustee positions are subject to election at the same time: (1) the creation of a new elementary district under the provisions of section 75-6518;

(2) the consolidation of two (2) or more elementary districts to form an elementary district under the provisions of section 75-6506;

(3) the establishment of additional trustee positions of a high school district under the provisions of section 75-5904 or 75-5905;

(4) the change of a district's classification under the provisions of section 75-6503;

(5) the filling of a trustee position which has become vacant under the provisions of section 75-5917 or any other provision of law; or

(6) any other circumstance arising under the law wherein a trustee position is filled by appointment subject to elec-

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tion at the next regular school election.

Section 37. Section 75-5908. Determination of terms after creation or consolidation of elementary districts. Whenever the trustees are elected at one (1) regular school election under the circumstances described in subsections (1) and (2) of section 75-5907, the members who are elected shall draw by lot to determine their terms of office. Such terms of office by trustee position shall be: (1) three (3) for three (3) years, two (2) for two (2) years, and two (2) for one (1) year in a first class elementary district;

(2) two (2) for three (3) years, two (2) for two (2) years, and one (1) for one (1) year in a second class elementary district; or

(3) one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year in a third class elementary district.

Section 38. Section 75-5909. Determination of terms after establishment or re-establishment of additional trustee positions. Whenever all of the additional trustee positions are subject to election at one (1) regular school election under the circumstance described in subsection (3) of section 75-5907, the members who are elected shall draw by lot to determine their terms of office. Such terms of office by number of members elected shall be: (1) two (2) for three (3) years, if four (4) are elected;

(2) one (1) for three (3) years, if one (1), two (2) or three (3) are elected;

(3) one (1) for two (2) years, if two (2), three (3) or four (4) are elected; and

(4) one (1) for one (1) year, if three (3) or four (4)

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are elected.

Whenever the re-establishment of the additional trustee positions for a high school district under the provisions of section 75-5905 results in an increased number of additional trustee positions, the members who are elected at the next regular school election shall draw by lot to determine their terms of office and such terms shall be determined in accordance with the additional trustee terms prescribed in this section.

Section 39. Section 75-5910. Determination of terms after change of district classification. Whenever the change of an elementary district classification requires the addition of trustee positions to the trustees of such district under the circumstance described in subsection (4) of section 75-5907, the members who are elected shall draw by lot to determine their terms of office which shall be one (1) for three (3) years and one (1) for two (2) years.

Section 40. Section 75-5911. Term of vacated trustee position after election. Whenever a trustee position is subject to election because a vacancy of such position has occurred since the last regular school election day, the term of the trustee position shall not change and the member elected to fill such position shall serve the remainder of the unexpired term.

Section 41. Section 75-5912. Annual election. In each district an election of trustees shall be conducted annually on the regular school election day, the first Saturday of April, unless an election of trustees is excused under the provisions of section 75-5914. Election of trustees shall

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comply with the election provisions of this title.

Section 42. Section 75-5913. Candidate qualification and nomination. Any person who is qualified to vote in a district under the provisions of section 75-6410 shall be eligible for the office of trustee.

Any five electors qualified under the provisions of section 75-6410 of any district, except a first class elementary district, may nominate as many trustee candidates as there are trustee positions subject to election at the ensuing election. The name of each person nominated for candidacy shall be submitted to the clerk of the district not less than twenty (20) days before the regular school election day at which he is to be a candidate. If there are different terms to be filled, the term for which each candidate is nominated shall also be indicated.

Section 43. Section 75-5914. Nomination caucus in first class elementary district and election waiver. In first class elementary districts, trustee candidates shall be nominated at a caucus attended by not less than twenty (20) electors of the district who are qualified under the provisions of section 75-6410. The caucus shall be conducted not less than forty (40) days nor more than sixty (60) days before the regular school election day.

When a candidate nominating caucus is conducted, it shall be a public meeting and a caucus chairman and secretary shall be elected by the caucus participants. The caucus may nominate any number of candidates.

Within ten (10) days after the date of the caucus meeting, the chairman and secretary of the caucus shall certify and file the nominations of the candidates with the clerk of

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the district by stating the date and place of the caucus, and the name of each candidate nominated. If there are different terms to be filled, the term for which each candidate is nominated also shall be stated.

Any votes for a person who has not been nominated in the manner provided by this section shall not be considered by the trustees of a first class elementary district when canvassing and certifying the election results. Whenever not more than one candidate per trustee position subject to election has been nominated, the clerk of the district shall report such fact to the trustees. The trustees shall certify the election of the nominated candidates and no trustee election shall be conducted on the regular school election day.

Section 44. Section 75-5915. Conduct of election and ballot. The trustees of each district shall call a trustee election on the regular school election day of each school fiscal year under the provisions of section 75-6406, except as provided in section 75-5914. The trustees shall call and conduct the trustee election in the manner prescribed in this title for school elections. Any elector qualified to vote under the provisions of section 75-6410 may vote at a trustee election. The trustee election ballots shall be substantially in the following form:

OFFICIAL BALLOT

SCHOOL TRUSTEE ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the name of the candidate for whom you wish to vote.

Vote for (indicate number to be elected) for a three (3)

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year term:

☐ (List the names of the candidates for a three (3)
☐ year term with a vacant square in front of each name.)

Vote for (indicate number to be elected) for a two (2) year term:

☐ (List the names of the candidates for a two (2)
☐ year term with a vacant square in front of each name.)

Vote for (indicate number to be elected) for a one (1) year term:

☐ (List the names of the candidates for a one (1)
☐ year term with a vacant square in front of each name.)

In preparing the ballots, only those portions of the prescribed ballot that are applicable to the election to be conducted need to be used. The ballot also shall be prepared with blank lines and vacant squares in front of the lines in a sufficient number to allow write-in voting for each trustee position that is subject to election, except that write-in voting shall not be available in a first class elementary district.

When additional trustees in a high school district are to be elected, a separate ballot shall be used in each nominating district showing only the names of those candidates for which the electors of such district are entitled to vote.

Section 45. Section 75-5916. Qualification and oath. Any person who receives a certificate of election as a trustee under the provisions of section 75-6423 shall not assume the trustee position until he has qualified. Such person shall

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qualify by completing and filing an oath of office with the county superintendent not less than fifteen (15) days after the receipt of the certificate of election. After a person has qualified for a trustee position, he shall hold such position for the term of the position and until his successor has been elected or appointed and has been qualified.

If the elected person does not qualify in accordance with this requirement, a person shall be appointed in the manner provided by section 75-5918 and shall serve until the next regular election.

Section 46. Section 75-5917. Vacancy of trustee position. Any elected trustee position shall be vacant whenever the incumbent: (1) dies;

(2) resigns;

(3) moves his residence from the applicable district, or from the nominating district in the case of an additional trustee in a high school district;

(4) is no longer a registered elector of the district under the provisions of section 75-6410;

(5) is absent from the district for sixty consecutive days;

(6) fails to attend three consecutive meetings of the trustees without a good excuse;

(7) has been removed under the provisions of section 75-5919; or

(8) ceases to have the capacity to hold office under any other provision of law.

A trustee position also shall be vacant when an elected candidate fails to qualify under the provisions of section 75-5916.

Section 47. Section 75-5918. Filling vacated trustee

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position, appointee qualification and term of office. Whenever a trustee position becomes vacant in a first or second class district, the remaining members of the trustees shall declare such position vacant and they shall appoint, in writing, a competent person as a successor. The trustees shall notify the appointee and the county superintendent of such appointment.

Whenever a trustee position becomes vacant in a third class district, the remaining members of the trustees shall declare such position vacant and notify the county superintendent of the vacancy. The county superintendent shall appoint, in writing, a competent person as a successor and notify such person of his appointment.

Any person who has been appointed to a trustee position shall qualify by completing and filing an oath of office with the county superintendent in not less than fifteen (15) days after receiving notice of his appointment. Failure to file the oath of office shall constitute a continuation of the trustee position vacancy which shall be filled under the provisions of this section.

Any person assuming a trustee position under the provisions of this section shall serve until the next regular school election and his successor has qualified.

Section 48. Section 75-5919. Trustee removal. Any trustee may be removed from his trustee position by a court of competent jurisdiction under the law providing for the removal of elected civil officials. When charges are preferred against a trustee and good cause is shown, the board of county commissioners may suspend such trustee from his trustee position until the charges can be heard in the court

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of competent jurisdiction.

Section 49. Section 75-5920. Trustees membership of high school district operating county high school. There shall be seven (7) trustee positions for the trustees of a high school district operating a county high school. Unless it has been otherwise established under law, the trustees of such a high school district shall be composed of the following: (1) the county superintendent; and

(2) six (6) members appointed by the board of county commissioners, no more than three (3) of whom shall reside outside of the elementary district where the county high school building is located.

Section 50. Section 75-5921. Appointment of trustees for high school district operating county high school. When trustees of a high school district operating a county high school are appointed by the board of county commissioners, the commissioners, at their December meeting, shall appoint members of the trustees for those terms which are expiring. Each member shall be appointed for a term of two (2) years beginning on the first Monday of January except that a one (1) year appointment shall be made whenever it is required to maintain the following balance of membership: (1) The terms of not more than three (3) appointed members shall expire at the same time; and

(2) The terms of not more than two (2) appointed members who reside outside of the elementary district where the county high school building is located shall expire at the same time.

Any member appointed under this section shall serve until his successor has been appointed and qualifies by filing an

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oath of office with the county superintendent.

Section 51. Section 75-5922. Vacancy and filling of appointed trustee position. In those instances where the board of county commissioners appoint the trustees of a high school district operating a county high school, a trustee position shall become vacant whenever the incumbent: (1) fails to be qualified or have the capacity to hold the trustee position under any of the applicable conditions prescribed under section 75-5917;

(2) moves his residence from the elementary district where the county high school building is located but within the high school district, and such change of residence will cause a majority of the appointed members to reside outside of such elementary district.

Whenever a trustee position is vacated, the remaining members of the trustees shall declare such position vacant and notify the board of county commissioners. The board of county commissioners shall immediately appoint a person to serve the remainder of the term for such vacated trustee position. Their appointment shall comply with the requirements of section 75-5921.

Section 52. Section 75-5923. Election to approve the election of the trustees of high school district operating county high school. The trustees of a high school district operating a county high school may be elected when the conditions of this section are satisfied.

Twenty per cent (20%) or more of the electors who are qualified to vote in the high school district under the provisions of section 75-6410 may petition the board of county commissioners to call an election to consider the proposition

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of electing the trustees of the high school district. Whenever the board of county commissioners receives a valid petition requesting such an election, they shall, within ten (10) days after the receipt of the petition and as provided by section 75-6406, order the trustees of the high school district to call an election on the proposition to elect the trustees.

The high school district trustees shall call and conduct an election in the manner prescribed in this title for school elections. Any elector qualified to vote under the provisions of section 75-6410 may vote on the proposition. The ballot for the election shall utilize the following proposition:

Shall the trustees of the high school district for the county high school be elected?

☐ FOR the election of trustees.

☐ AGAINST the election of trustees.

If a majority of the electors voting at the election approve the proposition, the trustees shall thereafter be elected beginning on the first regular school election day after such approval. If a majority of the electors disapprove, the trustees shall continue to be appointed under the provisions of section 75-5921.

Section 53. Section 75-5924. Membership of elected trustees of high school district operating county high school and nomination of candidates. Whenever the election of the trustees of a high school district operating a county high school has been approved by the electorate, the trustees shall be composed of the following: (1) four (4) trustee positions filled by members residing in the elementary district where the county high school building is located; and

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(2) three (3) trustee positions filled by members one of whom resides in each of the three (3) trustee nominating districts in the territory of the high school district outside of the elementary district where the county high school building is located. The county superintendent and board of county commissioners shall establish the nominating districts and, unless it is impossible, such districts shall have co-terminous boundaries with elementary district boundaries.

The provisions of section 75-5913 shall govern the nomination of candidates for the trustee election prescribed in this section.

Section 54. Section 75-5925. Determination of terms of office and filling vacancy of trustee position. The members of the trustees of a high school district operating a county high school who are elected at the first election after the voters approve the election of trustees, shall draw by lot to determine their terms. Such terms of office shall be: (1) two (2) for three (3) years, one (1) for two (2) years and one (1) for one (1) year for the trustee positions filled by members of the trustees from the elementary district where the county high school building is located; and

(2) one (1) for three (3) years, one (1) for two (2) years and one (1) for one (1) year for the trustee positions filled by members of the trustees from the trustee nominating districts.

Thereafter, all terms of office shall be for three (3) years and until the successor has qualified, except in the case of electing a member to serve the remainder of an unexpired term for a vacated elected trustee position.

Whenever an elected trustee position vacancy occurs under

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any of the circumstances prescribed by section 75-5917, the remaining members of the trustees shall declare such position vacant and they shall appoint, in writing, a competent person as a successor. The trustees shall notify the appointee and the county superintendent of the appointment. The appointee shall qualify by completing and filing an oath of office with the county superintendent, and shall serve until the next regular school election and his successor has qualified for the remainder of the unexpired term of the trustee position.

Section 55. Section 75-5926. Delivering items to successor. Whenever any member of the trustees, superintendent, principal or clerk of the district is replaced by election or otherwise, he shall immediately deliver all books, papers and monies pertaining to the position to his successor. Any such person who shall refuse to do so, or who shall willfully destroy any such material or misappropriate any monies entrusted to him, shall be guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not more than one hundred dollars ($100).

Section 56. Section 75-5927. Organization and officers. The trustees of each district shall annually organize as a governing board of the district after the regular election day and after the issuance of the election certificates to the newly elected trustees but not later than the third Saturday of April, except that if the trustees of a high school district operating a county high school are not elected they shall annually organize as the governing board at the first regular meeting of January. In order to organize, the trustees of the district shall be given notice of the time and

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place where the organization meeting will be held and, at such meeting, they shall choose one of their number as the chairman. In addition, except for the trustees of a high school district operating a county high school, the trustees shall employ and appoint a competent person, who is not a member of the trustees, as the clerk of the district. The trustees of a high school district operating a county high school shall appoint a secretary, who shall be a member of the board.

The chairman of the trustees of any district shall serve until the next organization meeting and shall preside at all the meetings of the trustees in accordance with the customary rules of order. He shall perform the duties prescribed by this title and any other duties that normally pertain to such officer.

Section 57. Section 75-5928. Joint board of trustees organization and voting membership. Whenever the trustees of a high school district operating a county high school and the trustees of the elementary district where the county high school building is located deem it to be within the best interests of the two districts, they may form a joint board of trustees for the purpose of coordinating the educational program of both districts. When a joint board of trustees is formed, all of the members of both districts' trustees shall be members of the joint board of trustees, and each member shall have the right to participate in the meetings but voting on matters considered by the joint board shall be limited by the provisions of this section.

At the first meeting of the joint board of trustees, there shall be a chairman of the joint board of trustees

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selected from among the membership. If the county superintendent is a member of the high school trustees, he shall be the secretary; otherwise, a secretary of the joint board shall be selected from the membership. The chairman, when selected as a voting member, shall not be disqualified from voting because of his position of chairman of the board. The secretary shall not be a voting member except that he shall cast the deciding vote when three (3) successive ballots have resulted in a tie vote of the joint board of trustees.

The voting membership of the joint board of trustees shall be equalized between the trustee membership of the two participating districts. After the selection of the chairman and the secretary, if necessary, the voting membership shall be: (1) all of the membership of the elementary district trustees unless one of its members is selected as secretary, in which case such member shall not be a voting member; and

(2) the members of the high school district trustees who are selected by such trustees as voting members of the joint board in a number equal to the number of voting members of the elementary district trustees as established under subsection (1) above. The names of the voting membership selected by the high school trustees shall be submitted in writing to the secretary of the board and shall be the only members of such district's trustees eligible to vote on joint board matters unless such list is revised in writing by the high school trustees.

Each voting member shall be entitled to cast one vote, individually, upon every matter submitted to the joint board for a vote.

Section 58. Section 75-5929. Powers of joint board of

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trustees. When a joint board of trustees is formed as provided by section 75-5928, it shall have the power to: (1) jointly employ a district superintendent under the provisions of section 75-6112;

(2) jointly employ teachers under the provisions of section 75-6102;

(3) open a junior high school under the provisions of section 75-6605;

(4) prescribe and administer joint administrative policy; and

(5) prorate all items of joint expense between the elementary and high school districts, provided that a controversy over any decision by the joint board to prorate joint costs may, within thirty days, be appealed by the trustees of either district to the superintendent of public instruction for a final decision as to what constitutes a fair and just proration of the cost.

The joint board of trustees shall not have the power to transact business that is not specifically related to the joint administration of the two districts.

Section 59. Section 75-5930. Meetings and quorum. The trustees of a district shall hold at least the following number of regular meetings: (1) an organization meeting, as prescribed by section 75-5927;

(2) a preliminary budget meeting, as prescribed by section 75-6707; and,

(3) in first-class elementary districts, not less than one (1) regular meeting per month; or

(4) in any other district, regular meetings during the months of April, July, October and January.

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The trustees of the district shall adopt a policy setting the day and time for the minimum number of regular school meetings prescribed in subsection (3) or (4) and, in addition, any other regular meeting days the trustees wish to establish; such meetings shall be conducted in school buildings or on other property belonging to the district.

Special meetings of the trustees may be called by the chairman or any two (2) members of the trustees by giving each member a forty-eight (48) hour written notice of the meeting.

No business shall be transacted by the trustees of a district unless it is transacted at a regular meeting or a properly called special meeting. A quorum for any meeting shall be a majority of the trustees' membership. All trustee meetings shall be public meetings, as prescribed by section 82-3401, R.C.M., 1947, except that the trustees may recess to an executive session under the provisions of section 82-3402, R.C.M., 1947.

Section 60. Section 75-5931. Travel reimbursement and joint board of trustees secretary compensation. The members of the trustees of any district shall not receive compensation for their services as trustees, except that the secretary of the trustees of a high school district operating a county high school or the secretary of a joint board of trustees may be compensated for his services as the secretary. The members of the trustees who reside over three (3) miles from the trustees' meeting place shall be reimbursed eight cents ($.08) for every mile necessarily traveled between their residence and the meeting place, and return in attending the regular and special meetings of the trustees, and all trustees shall be

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similarly reimbursed for meetings called by the county superintendent. The travel reimbursement may be accumulated during the school fiscal year and paid at the end of the fiscal year, at the discretion of each trustee.

Section 61. Section 75-5932. General powers and duties and record of acts. The trustees of each district shall have the power and it shall be its duty to prescribe and enforce policies for the government of the district. In order to provide a comprehensive system of governing the district, the trustees shall: (1) adopt the policies required by this title; and

(2) adopt policies to implement or administer the requirements of the general law, this title, the policies of the board of education or the rules and regulations of the superintendent of public instruction.

The trustees shall keep a full and permanent record of all adopted policies and all other acts of the trustees.

Section 62. Section 75-5933. Powers and duties. As prescribed elsewhere in this title, the trustees of each district shall have the power and it shall be its duty to perform the following duties or acts: (1) employ or dismiss a teacher, principal or district superintendent in accordance with the provisions of the school personnel chapter of this title;

(2) administer the attendance and tuition provisions and otherwise govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

(3) call, conduct and certify the elections of the district in accordance with the provisions of the school election chapter of this title;

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(4) participate in the teachers retirement system of the state of Montana in accordance with the provisions of the teachers retirement system chapter of this title;

(5) participate in district boundary change actions in accordance with the provisions of the districts chapter of this title;

(6) organize, open, close or acquire isolation status for the schools of the district in accordance with the provisions of the school organization chapter of this title;

(7) adopt and administer the annual budget or an emergency budget of the district in accordance with the provisions of the school budget system chapter of this title;

(8) conduct the fiscal business of the district in accordance with the provisions of the school financial administration chapter of this title;

(9) establish the ANB, foundation program, permissive levy, additional levy, cash reserve and state impact aid amount for the general fund of the district in accordance with the provisions of the general fund chapter of this title;

(10) establish, maintain, budget and finance the transportation program of the district in accordance with the provisions of the transportation chapter of this title;

(11) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds chapter of this title;

(12) when applicable, establish, financially administer and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, post-secondary vocational-technical center fund, non-operating fund, school food services fund, miscellaneous federal programs fund, building fund,

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housing and dormitory fund, traffic education fund and interlocal cooperative agreement fund in accordance with the provisions of the other school funds chapter of this title;

(13) when applicable, administer any interlocal cooperative agreement, gifts, legacies or devises in accordance with the provisions of the miscellaneous financial chapter of this title;

(14) hold in trust, acquire and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities chapter of this title;

(15) operate the schools of the district in accordance with the provisions of the school calendar chapter of this title;

(16) establish and maintain the instructional services of the schools of the district in accordance with the provisions of the instructional services, textbooks, vocational education and special education chapters of this title;

(17) establish and maintain the school food services of the district in accordance with the provisions of the school food services chapter of this title; and

(18) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of education or the rules and regulations of the superintendent of public instruction.

Section 63. Section 75-5934. Other powers and duties. The trustees of any district shall have the power and it shall be its duty: (1) to employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians, main-

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tenance personnel, school bus drivers, food service personnel, nurses, and any other personnel deemed necessary to carry out the various services of the district;

(2) to make such reports from time to time as the county superintendent, superintendent of public instruction and board of education may require;

(3) to retain, when deemed advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil, and upon request make available to any parent or guardian any medical reports or health records maintained by the district pertaining to his child;

(4) for each member of the trustees, to visit each school of the district not less than once each school fiscal year to examine its management, conditions and needs; and

(5) procure and display outside daily in suitable weather at each school of the district an American flag which shall be not less than four (4) feet by six (6) feet.

Section 64. Section 75-5935. Clerk of the district. As provided in section 75-5927, the trustees shall employ and appoint a clerk of the district. It shall be the duty of the clerk of the district to attend all meetings of the trustees to keep an accurate and permanent record of all the proceedings of each meeting. If the clerk is not present at a meeting, the trustees shall have one of its members or a district employee act as clerk for such meeting, and such person shall supply the clerk with a certified copy of the proceedings. The clerk of the district also shall be the custodian of all documents, records and reports of the trustees. Unless the trustees provide otherwise, the clerk shall: (1) keep

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an accurate and detailed accounting record of all receipts and expenditures of the district in accordance with the financial administration provisions of this title;

(2) prepare the annual trustees' report required under the provisions of subsection (5) of section 75-6806; and

(3) make an annual census of all the children of the district in accordance with sections 75-5936 and 75-5937.

Section 65. Section 75-5936. School census and child eligibility. The trustees of each elementary district shall annually take a school census of all children residing in the district who are six (6) years of age or older but who have not yet reached their twenty-first birthday. At the time the school census is taken, the trustees also shall take a census of all the children residing in the district who are less than six years old. The school census shall be taken between the fifteenth day of September and the fifteenth day of October but the age of the child or the residence of the child or parents shall be determined on the basis of his age or the residence on the first day of October.

For the purpose of the school census and under-six-years-old census: (1) a child shall be a resident of a district when:

(a) he resides with his parent or guardian in the district;

(b) he has resided in the district but is temporarily living outside of the district to attend a public or private school, an institution of higher education or a Montana public institution and his parent or guardian reside in the district;

(c) he is married or has been married and resides in the district, regardless of the residence of his parents or guard-

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ian;

(d) he is living at a private institution located in the district that exists primarily for the rehabilitation, psychiatric or general medical care, or general welfare of the child, and such private institution may or may not also provide education for the child; or

(e) any other child who resides in the district and who is not specifically excluded under subsection (2), below.

(2) a child shall not be a resident of a district when:

(a) he is visiting in or passing through the district;

(b) he is living in the district for the purpose of attending a public or private school or institution which exists primarily for the purpose of providing elementary, secondary or higher education, and his parent or guardian does not live in the district;

(c) he is an unmarried child who is living in the district but his parents do not reside in the district and he is not living in a private institution, as defined in subsection (1)(c) above; or

(d) he may be properly included on the school census of some other district.

Section 66. Section 75-5937. Report of school census, compensation and transmittal. The school census and the under-six-years-old census for a district shall be reported in alphabetical order by the child's last name on the blanks supplied by the county superintendent and prescribed by the superintendent of public instruction, unless the superintendent of public instruction has authorized a district to submit its census by a data processing tabulation. The school census and the under-six-years-old census shall report the

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following facts: (1) The full name, age, birth date and sex of each child grouped under the family information required under subsection (2);

(2) The full names of both parents or guardian and the address of the parents or the guardian; and

(3) Any other information required by the superintendent of public instruction.

The trustees shall pay the clerk of the district or any other person who enumerates the children of the district for the school census or under-six-years-old census at a rate not exceeding ten cents ($.10) per name properly reported. The clerk or such other person shall not be paid until the report is complete and submitted to the county superintendent. The clerk or such other person shall receive the enumeration compensation in addition to any other regular compensation the district may pay for his services.

The clerk or such other person conducting the census shall submit two copies of the reports, under oath, to the trustees who in turn shall submit them to the county superintendent by the first day of November. Failure to submit the report in accordance with the requirements of this section, or the inclusion of fictitious names or non-resident children on the census report shall be a misdemeanor which shall be punishable by a fine of not less than ten dollars ($10) or more than fifty dollars ($50).

If the trustees fail to submit the school census report, the members of the trustees shall jointly be liable for the full amount of interest and income monies lost to the district. Any taxpayer of the district may bring action in the name of the district to recover the money for the district.

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Section 67. Section 75-5938. Listing of handicapped children. At the time the school census is taken and if the superintendent of public instruction requests such a listing, the trustees shall include a listing of handicapped children of the district as a part of their school census report on forms provided by the superintendent of public instruction. In cooperation with a public health nurse, school nurse or public health medical officer, the listing of the handicapped children shall be completed by using reasonable diligence to ascertain the names and such information for each child as may be requested by the superintendent of public instruction.

The superintendent of public instruction may request a survey and the listing of handicapped children prescribed by this section at his discretion but in cooperation with the state department of health.

Section 68. Section 75-5939. Purchase of liability insurance. The trustees of any district may purchase insurance coverage for the district, trustees, and employees against liability for the death, injury, or disability of any person or damage to property. If such insurance is purchased, the trustees shall pay the insurance premium cost from the general fund. The provisions of section 40-4402, R.C.M., 1947, shall apply to the provisions of this section.

Section 69. Section 75-5940. Liability of district. The trustees of any district shall be liable in the name of the district for any judgment against the district, and they shall pay such judgments in the same manner as any other obligation of the district.

Section 70. Section 75-5941. Personal liability of trustees. The trustees of each district shall be responsible

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for the proper administration and utilization of all monies of the district in accordance with the provisions of law and this title. Failure or refusal to do so shall constitute grounds for removal from office. Those trustees consenting to improper use of the monies shall be jointly and individually liable to the district for any losses the district has realized. The county attorney shall prosecute any proceeding arising pursuant to this section, or a party seeking such action may retain private counsel. The party commencing the action shall be liable for the costs if the action fails.

Section 71. Section 75-6001. System of teacher certification. In order to establish a uniform system of quality education and to insure the maintenance of professional standards, a system of teacher certification shall be established and maintained under the provisions of this title and no person shall be permitted to teach in the public schools of the state until he has obtained a teacher certificate or the district has obtained an emergency authorization of employment from the state.

Section 72. Section 75-6002. Board of education policies. To effect an orderly and uniform system of teacher certification, the board of education shall, upon the recommendation of the superintendent of public instruction and in accordance with the provisions of this title, prescribe and adopt policies for the issuance of teacher certificates. Such policies shall provide for: (1) reasonable training and experience requirements for teacher, supervisor and administrative certificates and endorsements thereon as provided by the certification classification in section 75-6006;

(2) the renewal of teacher certificates based on the

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same conditions prescribed for the initial issuance of certificates;

(3) the conduct of hearings on teacher certification revocation, suspension or denial;

(4) the issuance of emergency authorization to a district to employ a person, who is not the holder of a valid teacher certificate, as an instructor of pupils; and

(5) any other policy not inconsistent with the law, which is necessary for the proper operation of a system of teacher certification.

Section 73. Section 75-6003. Issuance of teacher certificates. The superintendent of public instruction shall issue all teacher certificates in the state of Montana. In issuing teacher certificates, the superintendent of public instruction shall comply with the provisions of this title and the teacher certification policies adopted by the board of education. The superintendent of public instruction shall not issue a teacher certificate to any person who does not satisfy the qualifications or other requirements of this title and of the board of education policies for teacher certification.

Section 74. Section 75-6004. Qualifications. Any person may be certified as a teacher when he satisfies the following qualifications: (1) He is eighteen (18) years of age or older but is not more than seventy (70) years of age;

(2) He has a certificate of a licensed physician attesting to his satisfactory health;

(3) He is a citizen of the United States except as provided in section 75-6005;

(4) He is of good moral and professional character;

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(5) He has completed the teacher education program of a unit of the Montana university system, or an essentially equivalent program at an accredited institution in the United States or equal rank and standing as that of any unit of the Montana university system, and such training shall be evidenced by at least a bachelor's degree and a certification of the completion of the teacher education program, except as provided for in subsection (4), section 75-6006; and

(6) He has subscribed to the following oath or affirmation before an officer authorized by law to administer oaths:

"I solemnly swear (or affirm) that I will support the constitution of the United States of America, the constitution of the state of Montana, and the laws of the United States and the state of Montana, and will, by precept and example, promote respect for the flag and the institutions of the United States and the state of Montana, reverence for law and order and undivided allegiance to the government of the United States of America."

Section 75. Section 75-6005. Noncitizen teacher certification. The superintendent of public instruction may issue a class 5 provisional certificate to a person who is not a citizen of the United States when: (1) the trustees of a district request certification of such person; and

(2) he otherwise qualifies for at least a class 5 provisional certificate.

The superintendent of public instruction also may issue an annual teacher certificate to a person who is not a citizen of the United States and who is an exchange teacher from a foreign country intending to return to that country.

Section 76. Section 75-6006. Classifications of teacher

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certificates. The superintendent of public instruction shall issue teacher certificates and the board of education shall adopt teacher certification policies on the basis of the following classifications of teacher certificates: (1) Class 1. Professional certificate. The professional certificate may be issued to an otherwise qualified applicant who has completed a teacher education program which includes a bachelor's degree and a minimum of one year of study beyond such degree in a unit of the Montana university system or an equivalent institution. The professional certificate may be endorsed for elementary instruction, secondary instruction or both, and for specified subject fields on the basis of the applicant's academic and professional training and according to the board of education policy for teacher certification endorsement.

(2) Class 2. Standard certificate. The standard certificate may be issued to an otherwise qualified applicant who has completed a four-year teacher education program and who has been awarded a bachelor's degree by a unit of the Montana university system or an equivalent institution. The standard certificate may be endorsed for elementary instruction, secondary instruction or both, and for specified subject fields on the basis of the applicant's academic and professional training and according to the board of education policy for teacher certification endorsement.

(3) Class 3. Administrative and supervisory certificate. The administrative and supervisory certificate may be issued to an otherwise qualified applicant who is the holder of a teacher certificate endorsed for teaching in the school or schools in which he would be an administrator or he would

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supervise. The applicant also shall possess the training and experience required by the policies of the board of education for an endorsement as superintendent, principal, or supervisor.

(4) Class 4. Vocational, recreational, or adult education certificate. The vocational, recreational, or adult education certificate may be issued to an otherwise qualified applicant who has the qualifications of training and experience required by the United States office of education or the qualifications required by the special needs of the several vocational, recreational, or adult education fields, and who can qualify under the policy of the board of education for the issuance of this classification of teacher certification.

(5) Class 5. Provisional certificate. The provisional certificate may be issued to an otherwise qualified applicant who can provide satisfactory evidence of his intent to qualify in the future for a class 1 or a class 2 certificate and who has completed a four-year college program or its equivalent and holds a bachelor's degree from a unit of the Montana university system or its equivalent. The provisional certificate may be endorsed for elementary instruction, secondary instruction or both, and for special subject fields on the basis of the applicant's academic and professional training and according to the board of education policy for teacher certification endorsement.

For purposes of evaluating the qualifications of applicants for teacher certificates, a year means the instructional period consisting of three quarters or two semesters or other terms which are recognized as an academic year by any unit of

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the Montana university system or equivalent institution.

Section 77. Section 75-6007. Outstanding teacher certificates. No provisions of this title shall affect or impair the validity of any certificate that is in force on the effective date of this act, or the rights and privileges of the holders by virtue thereof, except that any certificate may be suspended or revoked for any of the causes and by the procedures provided by law.

Any holder of an elementary school standard certificate issued prior to July 1, 1959, under the previous statute and in force on July 1, 1959, shall be eligible for renewal of such certificate in accordance with the policies of the board of education until the holder qualifies for the class 2 standard certificate as provided in section 75-6006.

Any holder of a class 5 certificate in force on June 30, 1966, or issued between July 1, 1966, and December 31, 1966, shall be eligible for renewal of such certificate in accordance with the policies of the board of education until the holder qualifies for the class 2 standard certificate as provided in section 75-6006.

Section 78. Section 75-6008. Term of teacher certificates. Any teacher certificate issued by the superintendent of public instruction shall bear the dates of issue and validity and shall be valid for a term of five (5) school fiscal years, except that class 5 provisional certificates shall be valid for two (2) school fiscal years. The period of validity for any certificate shall begin on the first day of July immediately preceeding the date of issue. Teacher certificates shall be renewed for similar periods of time on the basis of the board of education policies for teacher certification re-

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Section 79. Section 75-6009. Fees for teacher certificates. Each person applying for the issuance or renewal of a teacher certificate shall pay a fee of two dollars ($2) for each school fiscal year that the certificate will be valid. In addition to this fee, each person who has never held any class of Montana teacher certificate or for whom an emergency authorization of employment has never been issued, shall pay a filing fee of two dollars ($2). Such fees shall be paid to the superintendent of public instruction, who shall deposit the fees with the state treasurer to the credit of the general fund.

Section 80. Section 75-6010. Suspension, revocation and denial appeals. The board of education shall have the power and authority to suspend or revoke the teacher certificate of any person for any of the following reasons: (1) Any reason that would have required or authorized the denial of the teacher certificate to such person if it had been known at the time such certificate was issued;

(2) By reason of incompetency, immorality, intemperance, physical inability, or conviction of a felony under state law; or

(3) By reason of the failure of the certificate holder to comply with the terms of any contract between such holder and the trustees of a district without the consent of the trustees in writing or without good cause. Such breach of contract shall constitute unprofessional conduct.

Whenever a substantial reason for the suspension or revocation of the teacher certificate of any person is brought to the attention of the board of education, it shall afford

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the person an opportunity to defend himself and his qualifications against the charge before the board. The superintendent of public instruction shall give a thirty (30) day written notification to any person when the board of education intends to consider the suspension or revocation of his certificate. The board of education shall implement an investigation of the reasons for the suspension or revocation charge and then, if the investigation warrants further action, conduct a hearing in the manner provided by board of education policies.

After a full investigation and proper hearing, the board of education may suspend or revoke the person's teacher certificate, except that in cases of a first violation under subsection (3) above, the maximum penalty shall not be more than a suspension of the person's certificate for the current school fiscal year and the ensuing school fiscal year.

Whenever the superintendent of public instruction denies the issuance or the renewal of a teacher certificate to a person, he may appeal the denial to the board of education. The appeal shall be heard in the same manner provided for in this section for suspension or revocation and in accordance with the policies of the board of education. The decision of the board of education shall be final.

Section 81. Section 75-6011. Emergency authorization of employment. Any district may request from the superintendent of public instruction an emergency authorization of employment for a person as an instructor of pupils who is not the holder of a valid teacher certificate when such district cannot secure the services of a person holding a valid certificate. The person shall have previously held a valid teacher certificate or shall meet the standards of preparation

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prescribed by the policies of the board of education for and during such emergency. Such emergency authorization of employment shall indicate: (1) the district to which such authorization is issued;

(2) the person whom the district is authorized to employ;

(3) the endorsement for elementary or secondary instruction and the specific subject fields for which authorization to employ such person is given; and

(4) the school fiscal year for which such emergency authorization of employment is given.

Emergency authorization of employment of a person shall be valid for the school fiscal year identified on such authorization and may be renewed in accordance with the board of education policies. A fee of two dollars ($2) and, if no teacher certificate or emergency authorization of employment has ever been issued for such person, a filing fee of two dollars ($2) shall be paid for the issuance of an emergency authorization of employment. The superintendent of public instruction shall deposit the fees with the state treasurer to the credit of the general fund.

Emergency authorization of employment of a person may be revoked for good cause in accordance with the provisions of section 75-6010.

Section 82. Section 75-6101. Definitions. As used in this title, unless the context clearly indicates otherwise:

"Teacher" means any person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted

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by the board of education, and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher also shall include any person for whom an emergency authorization of employment of such person has been issued under the provisions of section 75-6011.

"Principal" means any person who holds a valid class 3 Montana teacher certificate with an applicable principal's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of education and who has been employed by a district as a principal. For the purposes of this title, any reference to a teacher shall be construed as including a principal, as herein defined.

"District superintendent" means any person who holds a valid class 3 Montana teacher certificate with a superintendent's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of education and who has been employed by a district as a district superintendent.

Section 83. Section 75-6102. Employment of teachers by contract. The trustees of any district shall have the authority to employ any person as a teacher, but only a person who holds a valid Montana teacher certificate or for whom an emergency authorization of employment has been issued that qualifies such person to perform the duties prescribed by the trustees for the position of employment. Each teacher shall be employed under written contract and each contract of employment shall be authorized by a proper resolution of the trustees and shall be executed in duplicate by the chairman of the

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trustees and the clerk of the district in the name of the district, and by the teacher.

No contract of employment with a teacher shall require such teacher to teach more than five days a week or on any holiday recognized by section 75-7406. No deduction shall be made from a teacher's salary by reason of the fact that a holiday falls on a school day. Any teacher's contract made in conflict with the five-days-per-week provision of this section shall not be enforceable against the teacher.

Whenever the trustees of a county high school and the trustees of the elementary district where the county high school is located form a joint board of trustees under the provisions of section 75-5928, such joint board of trustees may execute a contract of employment with a teacher who shall serve both districts. When such a contract is executed, the two districts shall prorate the compensation provided by such contract on the basis of the total number of instructional hours expended by such teacher within each district.

Any contract executed under the provisions of this section may contain the oath or affirmation prescribed in section 75-6004 and the teacher shall subscribe to such oath or affirmation before an officer authorized by law to administer oaths.

Section 84. Section 75-6103. Teacher tenure. Whenever a teacher has been elected by the offer and acceptance of a contract for the fourth consecutive year of employment by a district in a position requiring teacher certification except as a district superintendent, the teacher shall be deemed to be re-elected from year to year thereafter as a tenure teacher at the same salary and in the same or a com-

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parable position of employment as that provided by the last executed contract with such teacher, unless: (1) the trustees resolve by majority vote of their membership to terminate the services of the teacher in accordance with the provisions of section 75-6104;

(2) the trustees close the school, as provided in section 75-6607, for which the teacher is employed; or

(3) the teacher will attain the age of sixty-five (65) years before the ensuing first day of September and the trustees have notified the teacher in writing by the first day of April that his services will not be needed in the ensuing school fiscal year, except that the trustees may continue to employ such a teacher from year to year until the school fiscal year following his seventieth (70th) birthday.

Section 85. Section 75-6104. Termination of tenure teacher services. Whenever the trustees of any district resolve to terminate the services of a tenure teacher under the provisions of subsection (1) of section 75-6103, they shall notify such teacher in writing before the first day of April of such termination. Any tenure teacher who receives a notice of termination may request, in writing ten (10) days after the receipt of such notice, a written statement declaring clearly and explicitly the specific reason or reasons for the termination of his services, and the trustees shall supply such statement within ten (10) days after the request. Within ten (10) days after the tenure teacher receives the statement of reasons for termination, he may request in writing a hearing before the trustees to reconsider their termination action. When a hearing is requested, the trustees shall conduct such a hearing and reconsider their termination action within ten

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(10) days after the receipt of the request for a hearing. If the trustees affirm their decision to terminate the teacher's employment, the tenure teacher may appeal their decision to the county superintendent and, subsequently, either the teacher or the trustees may appeal to the superintendent of public instruction under the provision for the appeal of controversies in this title.

Section 86. Section 75-6105. Notification of tenure teacher re-election. The trustees shall provide written notice to all tenure teachers who have been re-elected by the first day of April. Any tenure teacher who does not receive notice of re-election or termination shall be automatically re-elected for the ensuing school fiscal year. Any tenure teacher who receives notification of his re-election for the ensuing school fiscal year shall provide the trustees with his written acceptance of the conditions of such re-election within twenty (20) days after the receipt of the notice of re-election, and failure to so notify the trustees within twenty (20) days shall constitute conclusive evidence of his nonacceptance of the tendered position.

Section 87. Section 75-6106. Teacher certification registration. Any person employed as a teacher, principal, or district superintendent shall register his certificate or the district shall register its emergency authorization of employment for a teacher with the county superintendent of the county wherein he is employed in order to validate his employment status and permit payment under his employment contract. If a teacher does not register his certificate with the county superintendent within sixty (60) calendar days after the teacher begins to perform his services, he shall not be eli-

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gible to receive any further compensation under his contract of employment until he has registered his certificate. After the schools of a district have been open for sixty (60) calendar days in the current school fiscal year, the county superintendent shall notify each district of the county of each teacher who has registered his current valid certificate, and the district shall not pay any teacher who has not registered his certificate until the county superintendent does notify the district of such registration.

A teacher employed by a joint district shall register his certificate with the county superintendent of the county performing the budgeting functions for the joint district, as defined in section 75-6720.

Section 88. Section 75-6107. Dismissal of teacher under contract. The trustees of any district may dismiss a teacher before the expiration of his employment contract for immorality, unfitness, incompetence, or violation of the adopted policies of such trustees. Any teacher who has been dismissed may appeal such dismissal to the county superintendent. If the county superintendent, after a hearing, determines that the dismissal by the trustees was made without good cause, he shall order the trustees to reinstate such teacher and to compensate such teacher at his contract amount for the time lost during the pending of the appeal.

Section 89. Section 75-6108. Duties of teacher. Any teacher under contract with a district shall: (1) conform to and enforce the laws, board of education policies, and the policies of the trustees of the district;

(2) utilize the course of instruction prescribed by the trustees;

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(3) keep, in a neat and businesslike manner, a teacher's register in the form and on the blanks prescribed by the superintendent of public instruction;

(4) immediately after the conclusion of each school instructional year and before the tenth (10th) day of July, prepare an annual report in the manner and on the forms prescribed by the superintendent of public instruction which shall include the pupil attendance and absence data from his teacher's register that is necessary to calculate ANB, and such report shall be submitted to:

(a) the district superintendent, if there be one,

(b) the principal of the school, if there be one and there is no district superintendent, or

(c) the county superintendent or all county superintendents when the teacher is reporting for a joint district, if there is no district superintendent or principal;

(5) exercise due diligence in the care of school grounds and buildings, furniture, equipment, books and supplies; and

(6) provide moral and civic instruction by:

(a) endeavoring to impress the pupils with the principles of morality, truth, justice and patriotism;

(b) teaching the pupils to avoid idleness, profanity and falsehood;

(c) instructing the pupils in the principles of free government and training them to comprehend the rights, responsibilities and dignity of American citizenship.

The trustees shall be authorized to withhold the salary warrant of any teacher who does not comply with the provisions of subsections (1) or (2) above until such teacher does comply with such provisions.

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The trustees shall not pay any teacher his last month's salary until he has provided a complete and accurate annual report to the required person, as determined by such person, and as required in subsection (4) of this section.

Section 90. Section 75-6109. Power of teacher over pupils and undue punishment. Any teacher shall have the authority to hold any pupil to a strict accountability for any disorderly conduct in school, on the way to or from school, or during intermission or recess. Whenever a teacher shall deem it necessary to inflict corporal punishment in order to maintain orderly conduct of a pupil, he shall administer such corporal punishment without undue anger and only in the presence of the principal, if there be one. Before any corporal punishment is administered, the parent or guardian shall be notified of the teacher's intention to so punish his child; except that in cases of open and flagrant defiance of the teacher or of the authority of the school, the teacher may administer corporal punishment without giving such notice.

Any teacher in a district not employing a district superintendent or a principal of the school where the teacher is assigned shall have the authority to suspend a pupil for good cause. Where a district superintendent or principal is employed only he shall have the authority to suspend a pupil for good cause. Whenever a teacher suspends a pupil, he shall notify the trustees immediately of such action, and the trustees shall meet as soon as practicable to consider the suspension action of the teacher.

It shall be the duty of any teacher to report the truancy or incorrigibility of any pupil to the district superintendent, principal, or the trustees, whichever is applicable.

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Any teacher who shall maltreat or abuse any pupil by administering any undue or severe punishment shall be deemed guilty of a misdemeanor and, upon conviction of such misdemeanor by a court of competent jurisdiction, shall be fined not more than one hundred dollars ($100).

Section 91. Section 75-6110. Abuse of teachers. Any parent, guardian, or other person who shall insult or abuse a teacher anywhere on the school grounds or school premises shall be deemed guilty of a misdemeanor and, upon conviction of such misdemeanor by a court of competent jurisdiction, shall be fined no less than ten dollars ($10) nor more than one hundred dollars ($100).

Section 92. Section 75-6111. Attendance of state teachers' association annual session. The teachers of any district shall be allowed to attend the annual session of the state teachers' association without loss of salary for those days of the session for which the trustees close the schools of the district.

Section 93. Section 75-6112. Appointment and dismissal of district superintendent or county high school principal. The trustees of any high school district, except a county high school, and the trustees of the elementary district where its high school building is located shall jointly employ and appoint a district superintendent. The trustees of a county high school shall employ and appoint a district superintendent except that they may employ and appoint a holder of a class 3 teacher certificate with a district superintendent endorsement as the county high school principal in lieu of a district superintendent. The trustees of any other district may employ and appoint a district superintendent.

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Whenever a joint board of trustees has been formed by a county high school and the elementary district where the county high school is located, such joint board shall jointly employ and appoint a district superintendent. During the term of contract of the jointly appointed district superintendent, neither district shall separately employ and appoint a district superintendent or county high school principal.

The written contract of employment of a district superintendent or a county high school principal shall be authorized by the proper resolution of the trustees of the district or the joint board of trustees, and executed in duplicate by the chairman of the trustees or joint board of trustees and the clerks of the districts, in the name of the districts, and by the district superintendent or the county high school principal. Such contract shall be for a term of not more than three (3) years and, after the second successive contract, the contract shall be deemed to be renewed for a further term of one (1) year from year to year thereafter unless the trustees shall, by resolution passed by a majority vote of its membership, resolve to terminate the services of the district superintendent or the county high school principal at the expiration of his existing contract. The trustees shall take such termination action and notify the district superintendent or the county high school principal of their intent to terminate his services at the expiration of his current contract not later than the first day of February of the last year of such contract.

Whenever a joint board of trustees employs a person as the district superintendent, the elementary district and the county high school shall prorate the compensation provided by

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the contract of employment on the basis of the number of teachers employed by each district.

At any time the class 3 teacher certification or the endorsement of the certificate of a district superintendent or a county high school principal that qualifies such person to hold such position becomes invalid, the trustees of the district or the joint board of trustees shall discharge such person as the district superintendent or county high school principal regardless of the unexpired term of his contract. The trustees shall not compensate him under the terms of his contract for any services rendered subsequent to the date of the invalidation of his teacher certificate.

No district superintendent or county high school principal shall engage in any work or activity which the trustees may deem to be in conflict with his duties and employment as the district superintendent or county high school principal.

Section 94. Section 75-6613. Duties of district superintendent or county high school principal. The district superintendent or county high school principal shall be the executive officer of the trustees and, subject to the direction and control of the trustee, he shall: (1) have general supervision of all schools of the district and the personnel employed by the district;

(2) implement and administer the policies of the trustees of the district;

(3) develop and recommend courses of instruction to the trustees for their consideration and approval in accordance with the provisions of sections 75-7503 and 75-7504;

(4) select all textbooks and submit such selections to the trustees for their approval in accordance with the pro-

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visions of section 75-7603;

(5) select all reference and library books and submit such selections to the trustees for their approval in accordance with provisions of section 75-7519;

(6) have general supervision of all pupils of the district, and shall enforce the compulsory attendance provisions of this title, and shall have the authority to suspend for good cause any pupil of the district until the trustees may consider such suspension;

(7) report the cumulative pupil attendance and pupil absence of the district and any other pupil information required by the report form prescribed by the superintendent of public instruction to the county superintendent or county superintendents when reporting for a joint district, immediately after the conclusion of the school instructional year and before the tenth (10th) day of July; and

(8) perform any other duties in connection with the district as the trustees may prescribe.

Section 95. Section 75-6114. Duties of principal. Whenever the trustees of a district employ and appoint a school principal but do not employ and appoint a district superintendent, such principal shall perform the duties of a district superintendent as prescribed in subsections (4), (5), (6), (7), and (8) of section 75-6113, and shall have general supervision of such school and the personnel assigned to such school.

Section 96. Section 75-6201. Definitions. As used in this title, unless the context clearly indicates otherwise: (1) "Retirement system" means the Teacher's Retirement System of the state of Montana provided for in section 75-

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6202.

(2) "Retirement board" means the retirement system's governing board provided by section 75-6203.

(3) "Employer" means the state of Montana, trustees of any district, or other agency or subdivision of the state which employs a person who is designated a member of the retirement system.

(4) "Member" means any person who has an individual account in the annuity savings fund; an active member is any person included under the provisions of section 75-6209; an inactive member is any person included under the provisions of section 75-6210.

(5) "Beneficiary" means any person in receipt of a pension, annuity, a retirement allowance, or other benefit as provided by the retirement system.

(6) "Service" means the performance of such instructional duties or related activities as would entitle the person to active membership in the retirement system under the provisions of section 75-6209.

(7) "Prior service" means employment of the same nature as service defined in subsection (6) of this section but rendered before September 1, 1937.

(8) "Credible service" is that service defined by section 75-6212.

(9) "Regular interest" means interest at four per cent (4%) per annum compounded annually, or at such other rate as may be set by the retirement board in accordance with subsection (2) of section 75-6206.

(10) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of a member or paid

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by a member and credited to his individual account in the annuity savings fund, together with interest. Regular interest shall be computed and allowed to provide a benefit at the time of retirement.

(11) "Earnable compensation" means the full rate of the compensation, pay or salary that would be payable to a member if he worked the full normal working time. In cases where compensation includes maintenance, the retirement board shall fix the value of that part of the compensation not paid in money.

(12) "Average final compensation" means the average of the earnable compensation of any three consecutive years on which the five per cent (5%) contribution has been made by the member.

(13) "Annuity" means the payments made to a beneficiary for life which are derived from a member's accumulated contributions. All annuities shall be paid in equal monthly installments. The retirement board may make an annual payment to the beneficiaries of the difference between the rate of interest used in calculating the benefit from the annuity reserve fund and the interest earned on investments.

(14) "Pension" means the payments made to a beneficiary for life which are paid into the pension fund derived from money accumulated by employers. All pensions shall be paid in equal monthly installments.

(15) "Retirement allowance" means the annuity plus the pension.

(16) "Annuity reserve" means the present value of all payments to be made on account of a member's annuity and computed upon the basis of such mortality tables as shall be

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adopted by the retirement board with regular interest.

(17) "Pension reserve" means the present value of all payments to be made on account of a pension and computed on the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

(18) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

(19) "Former retirement system" means the retirement system established under sections 1113 to 1132 inclusive, of the Revised Codes of Montana, 1935.

Section 97. Section 75-6202. Retirement system. The state teachers' retirement system created under the provisions of chapter 87, laws of 1937 is hereby recognized as the state teachers' retirement system of the state of Montana and no provisions of this act shall affect or impair the validity of any action taken by its governing board or the rights of any person arising under the provisions of chapter 87, laws of 1937 or any subsequent amendment thereto. Such state teachers' retirement system shall be known as "The Teachers' Retirement System of the State of Montana" and in that name shall transact all business of the retirement system, invest its funds, hold its assets in trust, and have such powers and privileges of a corporation that may be necessary to carry into effect the provisions of this title.

Section 98. Section 75-6203. Retirement board. The governing board of the Teachers' Retirement System of the State of Montana shall be: (1) the superintendent of public instruction;

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(2) two (2) persons appointed from the teaching profession who are members of the retirement system; and

(3) two (2) persons appointed as representatives of the public.

Each appointed member of the governing board shall be appointed by the governor to serve a term of four (4) years and until his successor has been appointed and qualified. When a vacancy occurs in the position of an appointed member of the governing board, the governor shall appoint a person to serve the unexpired term for such position.

The attorney general shall be the legal advisor of the governing board.

Each appointed member of the governing board shall take and subscribe to the oath prescribed by section 1 of article XIX of the constitution of the state of Montana, and such oath shall be filed in the office of the secretary of state.

A majority of the members of the governing board shall constitute a quorum for the transaction of any business.

Section 99. Section 75-6204. Per diem and expenses. The members of the retirement board shall serve without direct or indirect compensation except that each appointed member shall receive twenty dollars ($20) per day and his necessary and actual expenses incurred for each day in attendance at the meetings of such board or in the execution of his duties as a member of the retirment board. Any appointed member's per diem reimbursement for any fiscal year shall not be more than three hundred dollars ($300). All per diem and expenses paid under the provisions of this section shall be paid from the expense fund of the retirement system.

Section 100. Section 75-6205. Powers and duties. The

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retirement board shall have the power and it shall be its duty to administer and operate the retirement system within the limitations prescribed by this title. To this end, it shall be the duty of the retirement board to: (1) establish rules and regulations necessary for the proper administration and operation of the retirement system;

(2) elect a chairman from its membership;

(3) appoint a secretary who may be one (1) of its members;

(4) employ technical or administrative employees who are necessary for the transaction of the business of the retirement system;

(5) approve or disapprove all expenditures necessary for the proper operation of the retirement system;

(6) keep a record of all its proceedings which shall be open to public inspection;

(7) publish a biennial report by the first day of January of each year the legislative assembly meets that shall report in detail the fiscal transactions for the two (2) fiscal years immediately preceding the report due date, the amount of the accumulated cash and securities of the retirement system and the last fiscal year balance sheet showing the assets and liabilities of the retirement system, and submit such biennial report to the governor and furnish copies to the legislative assembly;

(8) when the retirement board deems it necessary, designate a medical board to be composed of three physicians, who are not eligible to participate in the retirement system to investigate and report to the retirement board on all medical matters related to the administration of the retirement system;

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(9) keep in convenient form that data which is necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the retirement system;

(10) designate an actuary to assist the retirement board with the technical actuarial aspects of the operation of the retirement system, which shall include establishing mortality and service tables and making an actuarial investigation at least once every five (5) years into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system;

(11) prepare an annual valuation of the assets and liabilities of the retirement system;

(12) determine the eligibility of a person to become a member of the retirement system in accordance with the provisions of section 75-6209;

(13) prescribe a form for membership application which will provide adequate and necessary information for the proper operation of the retirement system;

(14) adopt policies for the determination of creditable service in the retirement system implementing the following guidelines:

(a) One (1) year's creditable service shall be awarded for each year of full-time service, outside of vacation periods, but no more than one (1) year's creditable service shall be awarded for service during the same school fiscal year.

(b) A proportion of a year's creditable service shall be allowed for part-time service. An equitable proration of a year's creditable service shall be awarded for part-time

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service.

(c) Not more than one (1) month's creditable service shall be awarded for one (1) or more continuous months of absence without pay.

(15) grant retirement, disability, and other benefits under the provisions of section 75-6208;

(16) annually determine the rate of regular interest as prescribed in section 75-6206;

(17) establish and maintain the funds of the retirement system in accordance with the provisions of section 75-6207; and

(18) perform such other duties and functions as are required to properly administer and operate the retirement system.

Section 101. Section 75-6206. Financial administration of monies. The retirement board shall be the trustees of all monies collected for the retirement system and as such trustees they shall provide for the financial administration of the monies in the following manner: (1) The monies shall be invested and reinvested by the state board of land commissioners.

(2) The retirement board annually shall establish the rate of regular interest on the basis of the interest earnings of the retirement system for the preceding year and of the probable earnings to be made, in the judgment of the board, during the immediate future.

(3) The retirement board annually shall divide among the several funds of the retirement system an amount equal to the average balance of such funds during the preceding fiscal year multiplied by the rate of regular interest. In accord-

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ance with the provisions of subsection (3)(e) of section 75-6207, the amount to be credited to each fund shall be allocated from the interest and other earnings on the monies of the retirement system actually realized during the preceding fiscal year, less the amount allocated to the expense fund under the provisions of subsection (5)(b) of section 75-6207.

(4) The state treasurer is the custodian of the collected retirement system monies and of the securities in which said monies are invested. All expenditures from such monies shall be made only upon claims signed by two (2) persons designated by the retirement board. A properly attested copy of a resolution of the retirement board designating such persons and bearing on its face specimen signatures of each person shall be filed with the state controller as his authority for approving such claims.

(5) Except as herein provided no member of the retirement board nor any of its employees shall have an interest, direct or indirect, in the gains or profits of any investment of monies of the retirement system. No member of the retirement board nor any of its employees shall directly or indirectly for himself or as an agent in any manner use the monies or deposits of the retirement system except to make such current and necessary expenditures as are authorized by the retirement board. No member of the retirement board nor any of its employees shall become an endorser or surety or in any manner an obligor for monies loaned by or borrowed from the retirement system.

(6) The retirement board may in its discretion transfer the amount in the annuity savings account of an inactive member to the pension accumulation fund if the account has been

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dormant for a period of seven (7) years. No right of the member shall be jeopardized by such transfer and the amount shall be transferred back to the member's annuity savings account upon his request.

(7) All the funds established by section 75-6207, except the expense fund, shall be accounts in the agency fund of the treasury fund structure of the state. The expense fund shall be an account in the earmarked revenue fund of the same treasury fund structure.

Section 102. Section 75-6207. Method of financing. The retirement board shall establish and maintain the following funds in which all of the assets of the retirement system shall be credited according to the purpose for which the assets are held. (1) Annuity savings fund. The annuity savings fund shall be a fund in which the contributions from the members to provide for their annuities shall be accumulated in individual accounts for each member. Contributions to and payments from the annuity savings fund shall be made in the following manner.

(a) Each employer shall deduct from the compensation of each active member on each and every payroll of such member for each and every payroll period subsequent to the date on which such member became a member an amount equal to five per cent (5%) of such member's earnable compensation, but no employer shall make any deductions for annuity purposes from the compensation of a member who has attained the age of sixty (60) and rendered thirty-five (35) years of creditable service if such member elects not to contribute.

(b) In determining the amount earnable by an active member in a payroll period, the retirement board may consider

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the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not an active member on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth (1/10) of one per cent (1%) of the annual compensation upon the basis of which said deduction is to be made.

(c) Such deductions shall be made notwithstanding that the minimum compensation provided by law for a member may be reduced thereby. Every member shall be deemed to consent and agree to the deductions prescribed by this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims whatsoever for the services rendered by such person during the period covered by such payment except as to the benefits provided by the retirement system.

(d) In addition to the contributions deducted from compensation and subject to the approval of the retirement board, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the accumulated contributions, or any part thereof, which he had previously withdrawn; or any member may deposit therein by a single payment or by an increased rate of contribution amounts for the purchase of an additional annuity. Such additional amounts so deposited shall become a part of his accumulated contributions. In the case of disability retirement, they shall be treated as excess contributions re-

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turnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his retirement allowance. The accumulated contributions of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death shall be paid from the annuity savings fund, and an amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid shall be transferred to the pension accumulation fund. Upon the retirement of a member his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

(2) Annuity reserve fund. The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

(3) Pension accumulation fund. The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and from which pensions and benefits in lieu thereof shall be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund shall be made as follows:

(a) Each employer shall pay into the pension accumulation

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fund an amount equal to four and one-half per cent (4 1/2%) of the earnable compensation of each member employed during the whole or a part of the preceding payroll period. Such employer's contribution shall be four per cent (4%) for each payroll period after the first day of July, nineteen hundred and seventy-nine (1979).

(b) If the employer is a district or community college district, the trustees shall budget and pay for the employer's contribution under the provisions of section 75-7204.

(c) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a unit of the Montana university system or the Montana state deaf and blind school, the legislative assembly shall appropriate to each employer an adequate amount to allow the payment of the employer's contribution.

(d) If the employer is a county, the county commissioners shall budget and pay for the employer's contribution in the manner provided by law for the adoption of a county budget and for payments under such budget.

(e) All interest and other earnings realized on the monies of the retirement system shall be credited to the pension accumulation fund and the amounts required to allow regular interest on the annuity savings fund, the annuity reserve fund and the pension reserve fund shall be transferred to the respective funds from the pension accumulation fund.

(f) All pensions and benefits in lieu thereof, including pensions payable under section 75-6218, with the exception of those payable to members not entitled to prior service credit shall be paid from the pension accumulation fund.

(g) The retirement board may in its discretion transfer

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to and from the pension accumulation fund the amount of any surplus or deficit which may develop in the reserve creditable to the annuity reserve fund or the pension reserve fund, as shown by actuarial valuation, and also such expenses as hereinafter provided.

(h) Upon the retirement of a member who does not have a prior service certificate, the actuarial equivalent of his pension shall be transferred from the pension accumulation fund to the pension reserve fund.

(4) Pension reserve fund. The pension reserve fund shall be the fund in which shall be held the reserves on all pensions granted to members not entitled to prior service credit and from which shall be paid such pensions and benefits in lieu thereof. Should a member not entitled to prior service credit who has been retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, the pension reserve held on account of his pension shall be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of such a disability beneficiary be reduced as a result of an increase in his earning capacity the amount of annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

(5) Expense fund. The expense fund shall be the fund to which shall be credited all monies contributed for the administrative expenses of the retirement system and from which the expenses of administration of the retirement system shall be paid exclusive of amounts payable as retirement allowances or other benefits. The retirement board shall determine an-

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nually the amount required for the expense fund to defray the administrative expense in the ensuing fiscal year. Contributions shall be made to the expense fund as follows:

(a) There shall be deducted from the compensation of each member by his employer the sum of one dollar for each year, in addition to all other deductions herein prescribed. The sum of such administrative assessments shall be paid to the retirement board by each employer in the same manner provided for the payment of the employee contributions. The administrative assessments shall be credited to the expense fund by the retirement board.

(b) That portion of the expense fund not financed under subsection (a) shall be paid from interest and other earnings realized on the monies of the retirement system.

Section 103. Section 75-6208. Benefits. The retirement, disability and other benefits of the retirement system shall be granted on the basis of the following provisions:

(1) Superannuation member retirement:

(a) Any member who has completed five (5) years of creditable service, the last five (5) years of which shall have been in this state, and who has attained the age of sixty (60) may retire from service, if he files with the retirement board his written application setting forth the fact of his retirement.

(b) Any member in service who has attained the age of seventy (70) years during any school year shall be retired on the first day of September following his seventieth birthday, except that this provision shall not apply to teachers in the Montana university system who may be employed beyond the age of seventy (70) upon the recommendation of the presi-

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dent of the employing unit to the board of regents. Members over seventy (70) years of age shall not: (1) be allowed creditable service for services rendered after the end of the school year in which the age of seventy (70) is attained, (2) contribute to the retirement system after the end of such school year, and (3) have the compensation received after the end of such school year used in computing average final salary. Initial employment of teachers in the Montana university system beyond the age of seventy (70) may be made upon the recommendation of the president of the employing unit and the approval of the board of regents but such employees shall be denied membership in the retirement system.

(c) Any retired member may be employed as a teacher in Montana and may earn an amount not to exceed one-fourth (1/4) of his average final compensation without loss of retirement benefits.

(2) Allowance for superannuation retirement. Upon superannuation retirement a member shall receive a retirement allowance based upon the following provisions:

(a) He shall receive an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

(b) He also shall receive a pension of one-quarter (1/4) of his average final compensation provided his creditable service is at least thirty-five (35) years, otherwise, a pension of one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of his creditable service.

(c) If he has a prior service certificate in full force and effect, he also shall receive an additional pension which

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shall be equal to one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

(d) The minimum annual retirement allowance for a member who has completed thirty (30) years service and who retired after September 1, 1937, and before June 30, 1948, shall be fifteen hundred dollars ($1,500) and the minimum retirement allowance for a member who retired after September 1, 1937, and before June 30, 1948, but whose service is less than thirty (30) years shall receive a minimum retirement allowance based on the proportionate amount of fifteen hundred dollars ($1,500) that his service bears to thirty (30) years of service.

(e) The minimum annual retirement allowance for a member who has completed thirty-five (35) years of service and who retires after June 30, 1949, shall be fifteen hundred dollars ($1,500).

(f) Each member receiving a superannuation allowance on June 30, 1967, shall be entitled to an increase in his original retirement allowance of two per cent (2%) for each year he has been retired between July 1, 1937, and June 30, 1967, but if he is eligible under subsections (2)(d) or (2)(e) above and the benefit thereunder is larger than the increased retirement allowance prescribed herein, this provision shall not apply.

(g) In the event a member retired on a superannuation allowance has not received more than three (3) retirement payments prior to death, the beneficiary of the member shall receive a refund of the difference between the total retirement allowance paid and the amount of the accumulated contributions.

(3) Disability member retirement:

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(a) Upon the application of an active member or of his employer, any active member who has five (5) or more years of creditable service may be retired by the retirement board not less than thirty (30) and not more than ninety (90) days after the date of filing such application on a disability retirement allowance. Before any member shall be eligible for a disability retirement, the medical board of the retirement system shall certify that he is mentally or physically incapacitated for the further performance of his duties, that such incapacity is likely to be permanent and that he should be retired.

(b) If the applicant for disability retirement was prevented because of the disability from making application at the time of the commencement of his disability, the retirement board shall grant the disability retirement upon the proper application for disability retirement allowance and make payments retroactive to the thirtieth day after the date of commencement of his disability.

(c) Re-examination of beneficiaries retired on account of disability. Once each year during the first five (5) years following the retirement of a member on disability retirement allowance, and once in every three (3) year period thereafter the retirement board may, and upon his application shall, require a disability beneficiary who has not yet attained the age of sixty (60) to undergo a medical examination by the medical board or a physician or physicians designated by the medical board. The examination shall be made at the place of residence of the beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not yet attained the age of sixty (60) refuse to submit to at least one (1) medical examination in any year by the medical board or

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its representative, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his disability pension may be revoked by the retirement board.

(d) Should the medical board report and certify to the retirement board that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be changed later, the amount of his pension may be further modified but the new pension shall not exceed the amount of the pension originally granted, nor an amount which when added to the amount earnable by the beneficiary, together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced benefit.

(e) Should a disability beneficiary under age sixty (60) be restored to active service at a compensation not less than his average final compensation, his retirement allowance shall cease, and he shall again become an active member of the retirement system. Any prior service certificate on the basis of which his service was computed at the time of his disability retirement shall be restored to full force and effect an addition upon his subsequent retirement, he shall

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be credited with all his subsequent service as a member. Should he be restored to active service on or after the attainment of the age of fifty-five (55) years, his pension upon subsequent retirement shall not exceed the pension that he would have received had he remained in service during the period of his previous retirement nor the sum of the pension which he was receiving immediately prior to his last restoration to service and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new member.

(4) Allowance for disability retirement. Upon retirement for disability, a member shall receive a superannuation allowance prescribed under subsection (2) above if he is eligible; otherwise he shall receive a disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement.

(b) A pension which, together with his annuity, shall provide a total retirement allowance equal to ninety per cent (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds one-quarter (1/4) of his average final compensation; otherwise, a pension which, together with his annuity, shall provide a total retirement allowance equal to one-quarter (1/4) of his average final compensation, provided, however, that no such allowance shall exceed ninety per cent (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years which would be creditable to him were his service to continue until the attainment of the minimum age for super-

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annuation retirement.

(c) In the event payments made to a person retired because of disability do not equal the amount of his accumulated contributions prior to his death, the difference between the total retirement allowance paid and the amount of the accumulated contributions of the member shall be paid to the beneficiary.

(5) Withdrawal of accumulated contributions. Any inactive member electing to do so or any person whose membership terminates shall withdraw his accumulated contributions to his annuity account in the retirement system in accordance with the following provisions:

(a) An inactive member under the provisions of subsections (1) or (3) of section 75-6210 may elect, without right of revocation to withdraw his accumulated contributions, and if he does not withdraw his accumulated contributions he shall thereafter remain an inactive member of the retirement system with the right to qualify for the benefits of the retirement system;

(b) Upon recovery from a disabling illness or separation from the armed forces, any person qualifying as an inactive member under the provisions of subsection (2) of section 75-6210 shall withdraw his accumulated contributions unless he returns to active membership.

(c) Any person whose membership terminates under the provisions of subsection (4) of section 75-6211 shall withdraw his accumulated contributions.

Any person withdrawing his accumulated contributions shall be paid the amount he contributed, less any unpaid membership fees. The accumulated interest credited to his annuity ac-

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count shall be transferred to the pension accumulation fund.

(6) Allowances for death of member.

(a) Should a member die before retirement the amount of the member's accumulated contributions shall be paid to his estate or such person as he may have designated in the manner prescribed by the retirement board which shall be filed with the board prior to the member's death.

(b) In lieu of benefits provided in (a) above, if the deceased member had qualified by reason of service for a retirement benefit, the beneficiary nominated by the deceased member may elect to receive a monthly life annuity. The monthly life annuity shall be based on the beneficiary's attained age at the time of the deceased member's death and calculated from an amount equal to the required reserve for the deceased member's creditable service, together with the deceased member's accumulated contributions.

(c) If the deceased member had five (5) or more years of creditable service and was an active member in the state of Montana within one (1) year prior to his death, the sum of fifty dollars ($50) per month shall be paid to each minor child of the deceased member until such child reaches his eighteenth (18th) birthday.

(7) Optional allowances. With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement, and that such a beneficiary shall be considered as an active member at the time of his death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement or disability allowance payable throughout life as hereinabove provided, or he may on retire-

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ment elect to receive the actuarial equivalent at that time of his retirement or disability allowance in a lesser retirement allowance payable throughout life with the provision that:

(a) Option 1. If he dies before he has received in payment of his annuity the amount of his accumulated contributions as they were at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board; or

(b) Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

(c) Option 3. Upon his death, one-half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

(d) Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement, except such other benefit or benefits, together with the lesser retirement allowance shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the retirement board.

Section 104. Section 75-6209. Active membership. Any of the following persons shall be active members of the retirement system unless otherwise provided by this title, ex-

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cept for those persons who became eligible for membership on the first day of September, nineteen hundred and thirty-seven (1937) or on the first day of September, nineteen hundred and thirty-nine (1939) and who elected not to be a member under the provisions of the law at that time: (1) Any person who is a teacher, principal or district superintendent as defined under the provisions of section 75-6101.

(2) Any person who is an administrative officer or a member of the instructional or scientific staff of a unit of the Montana university system.

(3) Any person employed in an instructional services capacity by the office of the superintendent of public instruction, the office of a county superintendent, a public institution of the state of Montana, the Montana state deaf and blind school, or a district.

(4) Any person who shall have elected not to become a member of the retirement system and is re-entering service in a capacity prescribed by subsections (1), (2) or (3) above.

(5) Any person who shall have elected not to become a member of the retirement system, who has been continuously employed in a capacity prescribed by subsection (1), (2) or (3) above since the time of such election and who may thereafter elect to become a member of the retirement system.

Any person who is designated a member by this section shall be employed full-time, outside of vacation periods, in the capacity prescribed for his eligibility; except that when a person is employed less than full-time, the retirement board may allow such person to become a member of the retirement system. The compensation for the creditable service of

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any person who is designated a member by this section shall be totally paid by an employer as defined herein, except that when this requirement is not satisfied, the retirement board may allow such a person to become a member of the retirement system. At any time a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine his eligibility for membership.

Section 105. Section 75-6210. Inactive membership. Any person's active membership in the retirement system shall terminate, but he shall be an inactive member when: (1) he ceases to be employed in a capacity that allows his membership and he has five (5) or more years of creditable service in the retirement system;

(2) he ceases to be employed in a capacity that allows his membership and he has less than five (5) years of creditable service in the retirement system, but his loss of capacity to be a member was caused by a personal illness determined by the retirement board to be a disability or was caused by service in the armed forces of the United States which includes the army, navy, marine corps, airforce and coast guard, or by service in the American Red Cross or merchant marine during time of war; or

(3) he has five (5) or more years creditable service and he becomes a member of any other retirement or pension system supported wholly or in part by monies of another government agency, except the federal social security retirement system, and the membership in the other retirement system would allow credit for the same employment service in two retirement systems. However, no person shall be excluded from active membership solely because he is receiving or is eligible to

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receive retirement benefits from another retirement system.

Section 106. Section 75-6211. Membership termination. The active or inactive membership in the retirement system of any person shall terminate when: (1) he retires on a retirement allowance of the retirement system;

(2) he dies;

(3) he withdraws his accumulated contribution to the retirement system under the provisions of subsection (5) of section 75-6208; or

(4) he ceases to be employed in a capacity that allows his membership, he has less than five (5) years of creditable service in the retirement system, and he cannot qualify under the provisions of subsection (2) of section 75-6210.

Section 107. Section 75-6212. Membership application and creditable service. Whenever a person becomes eligible for membership in the retirement system, he shall apply for such membership on the application form prescribed by the retirement board. The creditable service of a member shall begin on the receipt of the membership application by the retirement board and shall accumulate to the member's credit on the basis of the retirement board's policy governing creditable service.

The creditable service of any member shall include the following: (1) each year of service of a member for which contributions to the retirement system were deducted from his compensation under the provisions of chapter 87, laws of 1937, chapter 215, laws of 1939, this act, and their subsequent amendments, except that no credit shall be awarded for those years of service for which the contributions have been withdrawn and not replaced; plus

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(2) any out-of-state employment service awarded by the retirement board under the provisions of section 75-6213; plus

(3) any service awarded by a prior service certificate issued under the provisions of chapter 87, laws of 1937, chapter 215, laws of 1939 and their subsequent amendments, or under the provisions of section 75-6213.

The creditable service established by the retirement board under the provisions of this section shall be final and conclusive for the purposes of the retirement system unless, at any time, the retirement board discovers an error or fraud in the establishment of the creditable service, in which case the retirement board shall re-establish the creditable service.

Section 108. Section 75-6213. Creditable service for out-of-state employment and before September, 1937. Any person applying for membership also may apply for creditable service in the retirement system for out-of-state employment service that would have been acceptable under the provisions of this title if such service were performed in the state of Montana. The person shall be awarded creditable service, conditional upon his completing five (5) years of active membership in Montana, for the number of years the retirement board determines to be creditable service but for not more than five (5) years, if he contributes to the retirement system an amount equal to five per cent (5%) of his first year's salary earned in Montana for each year of creditable service. The contributions may be a lump sum payment or in installments as agreed between the person and the retirement board.

Whenever a member is retiring with at least ten (10)

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years of creditable service and he has been an active member for at least five consecutive school fiscal years, he may request creditable service for any employment service he rendered prior to the first day of September, nineteen hundred and thirty-seven (1937) for which he has not received a prior service certificate. In order to receive such creditable service, he shall apply for it and provide certification of such service. The retirement board shall determine the amount of creditable service to be awarded, if any, and issue a prior service certificate.

Section 109. Section 75-6214. Duties of employer. It shall be the duty of each employer to: (1) deduct the contribution of each member employed by him at the rate prescribed by subsection (1) of section 75-6207 from each salary payment for each payroll period, and transmit the contribution each month to the secretary of the retirement board;

(2) pay to the secretary of the retirement board the employer's contribution prescribed by subsection (3) of section 75-6207 at the time that the employee contributions are transmitted to the secretary of the retirement board;

(3) keep records and, as required by the retirement board, furnish information to the retirement board that is required in the discharge of the retirement board's duties;

(4) upon the employment of any person who is required to become a member of the retirement system, inform him of his rights and obligations related to the retirement system. Each person accepting such employment shall be deemed to consent to membership and to the withholding of the contributions from his compensation;

(5) at the request of the retirement board, certify the

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names of all persons who are eligible for membership or are members of the retirement board; and

(6) notify the retirement board of the employment of a person eligible for membership and forward his membership application to the retirement board.

Section 110. Section 75-6215. Exemption from taxation, execution and assignment. The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are hereby exempted from any state, county or municipal tax of the state of Montana, and shall not be subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process whatsoever and shall be unassignable except as specifically provided.

Section 111. Section 75-6216. Guarantee by state. Regular interest charges payable, the creation and maintenance of reserves in the pension accumulation fund and the maintenance of annuity reserves in the annuity reserve fund and of pension reserves in the pension reserve fund as provided for in this title and the payment of all annuities, pensions, refunds, and other benefits granted under the retirement system are hereby made obligations of the state of Montana.

Section 112. Section 75-6217. Protection against fraud. Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a misdemeanor and shall be punishable therefor under the laws of the

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state of Montana. Should any change or error in records result in any member or beneficiary receiving from the retirement more or less than he would have been entitled to receive had the records been correct, then on discovery of any such error, the retirement board shall correct such error, and as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

Section 113. Section 75-6218. Discontinuance of former retirement system. On and after the first day of September, 1937, no further retirements shall be made under the provisions of the law governing the former retirement system and no benefits shall be paid either from the public school teachers' retirement salary fund, or from the public school teachers' permanent fund as established under such law, except as herein described.

All assets held in the funds maintained under said law on the first day of September, 1937, shall be transferred to the pension accumulation fund of the retirement system to be held in trust and invested as a trust fund and disbursed only in payment of benefits to those teachers on whose account they were contributed. The retirement salaries of all persons entitled to retirement salaries from the former retirement system on September 1, 1937, shall be paid beginning as of September 1, 1937, from such trust fund.

Any person who, having retired upon a retirement allowance under the former retirement system, shall have retired after having served as a teacher for at least twenty-five (25) school years, fifteen (15) of which, including the last ten (10) years, shall have been in the schools of this state, and

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who shall elect under this section to receive his interest in said public school teachers' retirement salary fund and said public school teachers' permanent fund in the form of an annuity, shall be entitled, while he shall remain retired, to receive and be paid from the said pension accumulation fund an annual allowance which, together with his said annuity, shall equal the sum of nine hundred dollars ($900). Any other person retired upon such allowance who shall elect to receive his interest in said funds in the form of an annuity shall, upon reaching the age of sixty (60) years, be entitled, while he shall remain retired, to receive and be paid from the said pension accumulation fund an annual allowance, which together with his said annuity shall equal a sum which shall be that proportion of nine hundred dollars ($900) which the number of school years which he shall have served as a teacher, and credited under the former retirement system bears to twenty-five (25).

Section 114. Section 75-6301. Definition. As used in this title, unless the context clearly indicates otherwise, "pupil" means any child who is six (6) years of age or older but has not yet reached his twenty-first birthday and who is enrolled in a school established and maintained under the laws of the state of Montana at public expense.

Section 115. Section 75-6302. Admittance of child to school. The trustees shall assign and admit any child to a school in the district, when the child is: (1) six (6) years of age or older but has not yet reached his twenty-first birthday;

(2) a resident of the district; and

(3) otherwise qualified under the provisions of this

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title to be admitted to such school.

In complying with subsection (1) above, the trustees shall have the authority to establish reasonable age requirements for entry into the first grade so long as an otherwise qualified child is permitted to enter the first grade some time during his seventh year or earlier.

The trustees of any district shall have the authority to assign and admit any nonresident child to a school in the district under the tuition provisions of this title.

Section 116. Section 75-6303. Compulsory enrollment and excuses. Any parent, guardian or other person who is responsible for the care of any child who is seven (7) years of age or older prior to the first day of school in any school fiscal year and has not yet reached his sixteenth birthday, or of a child who has not completed the work of the eighth (8th) grade, shall cause the child to be instructed in the English language and in the subjects prescribed by section 75-7503 or section 75-7504, whichever is applicable. Such parent, guardian or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when he establishes residence in the district unless: (1) the child is enrolled in a private institution which provides instruction in the subjects prescribed by section 75-7503 or section 75-7504, whichever is applicable, and in which the basic language taught is English;

(2) the child is enrolled in a school of another district or state under any of the tuition provisions of this title;

(3) the child is provided with supervised correspondence study or supervised home study under the transportation pro-

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visions of this title; or

(4) the child is excused from enrollment in a school of the district when it is shown that his bodily or mental condition does not permit his attendance and the child cannot be instructed under the special education provisions of this title.

The excuse provided for in subsection (4), above, shall be issued by the district superintendent, or the county superintendent when there is no district superintendent employed by the district. Whenever an excuse is denied by the applicable official, an appeal of such decision may be made to the district court of the county within ten (10) days after the decision upon giving a bond in the amount set by the court to pay all costs of the appeal. The decision of the district court shall be final.

Section 117. Section 75-6304. Compulsory attendance and excuses. Any parent, guardian or other person who is responsible for the care of any child who is seven (7) years of age or older prior to the first day of school in any school fiscal year but has not yet reached his sixteenth birthday, or of a child who has not completed the word of the eighth grade, shall cause the child to attend the school in which he is enrolled for the school term and each school day therein prescribed by the trustees of the district unless: (1) the child has been excused under one of the conditions specified in section 75-6303;

(2) the child is absent because of illness, bereavement or other reason prescribed by the policies of the trustees; or

(3) the child has been suspended or expelled under the provisions of section 75-6311.

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Section 118. Section 75-6305. Attendance officer. In order to enforce the compulsory attendance provisions of this title, each district shall have at least one person serving as an attendance officer according to the following requirements: (1) districts of the first and second class shall employ and appoint one or more attendance officers;

(2) districts of the third class may employ and appoint an attendance officer, or may appoint a constable or other peace officer as an attendance officer; or

(3) the county superintendent shall be the attendance officer in third-class districts that do not appoint an attendance officer.

Section 119. Section 75-6306. Attendance officer powers and duties. The attendance officer of any district shall: (1) be vested with police powers, the authority to serve warrants and the authority to enter places of employment of children in order to enforce the compulsory attendance provisions of this title;

(2) take into custody any child subject to compulsory attendance who is not excused under the provisions of this title and conduct him to the school in which he is or should be enrolled;

(3) do whatever else is required to investigate and enforce the compulsory attendance provisions of this title and the pupil attendance policies of the trustees;

(4) institute proceedings against any parent, guardian, or other person violating the compulsory attendance provisions of this title;

(5) keep a record of his transactions for the inspection and information of the trustees and make reports in the

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manner and to whomever the trustees designate; and

(6) perform any other duties prescribed by the trustees to preserve the morals and secure good conduct of the pupils of the district.

Section 120. Section 75-6307. Truancy. Whenever the attendance officer discovers a child truant from school or a child subject to compulsory attendance who is not enrolled in a school providing the required instruction and has not been excused under the provisions of this title, he shall notify in writing the parent, guardian or other person responsible for the care of the child that the continued truancy or nonenrollment of his child shall result in his prosecution under the provisions of this section. If the child is not enrolled and in attendance at a school or excused from school within two days after the receipt of the notice, the attendance officer shall file a complaint against such person in a court of competent jurisdiction. If convicted, such person shall be fined not less than five ($5) nor more than twenty dollars ($20). In the alternative, he may be required to give bond in the penal sum of one hundred dollars ($100), with sureties, conditioned upon his agreement to cause the enrollment of his child within two (2) days thereafter in a school providing the courses of instruction required by this title and to cause the child to attend that school for the remainder of the current school term. If a person refuses to pay a fine and costs or to give a bond as ordered by the court, he shall be imprisoned in the county jail for a term of not less than ten (10) days or more than thirty (30) days.

Section 121. Section 75-6308. Incapacitated and indigent child attendance. In lieu of the provisions of section

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75-6307 and when an attendance officer is satisfied that a pupil or a child subject to compulsory attendance is not able to attend school because he does not have the physical capacity or he is absolutely required to work at home or elsewhere in order to support himself or his family, the attendance officer shall report the case to the authorities charged with the relief of the poor. It shall be the duty of such welfare authorities to offer such relief as will enable the child to attend school. If the parent, guardian, or other person who is responsible for the care of the child denies or neglects the assistance offered to enable the child to attend school, the child shall be committed to a state institution, at the discretion of the court.

Section 122. Section 75-6309. Tribal agreement with district for Indian child compulsory attendance and other agreements. It shall be the duty of the trustees of any district where an Indian child resides to require the child to attend school in the same manner as any other child residing in the district, unless it is prohibited by the laws or treaties affecting the Indian tribe of which such child is a member or the Indian reservation on which such child resides. When such a prohibition exists, the trustees of any district shall have the authority to accept from the tribal council or other governing body of the Indian tribe or the Indian reservation authorization to enforce the compulsory attendance provisions of this title and compel the school attendance of the Indian children belonging to the tribe or residing on the reservation.

The trustees of any district shall have the authority to enter into an agreement with the tribal council or other

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governing body of an Indian tribe or Indian reservation to perform any other functions prescribed by this title except as limited by the laws of the United States and its treaties with such Indian tribe.

Section 123. Section 75-6310. Duties and sanctions. Any pupil shall: (1) comply with the policies of the trustees and the rules and regulations of the school which he attends;

(2) pursue the required course of instruction;

(3) submit to the authority of the teachers, principal and district superintendent of the district; and

(4) be subject to the control and authority of the teachers, principal and district superintendent while he is in school or on school premises, on his way to and from school, or during his intermission or recess.

Any pupil who continually and willfully disobeys the provisions of this section, shows open defiance of the authority vested in school personnel by this section, defaces or damages any school building, school grounds, furniture, equipment, book belonging to the district or harms or threatens to harm another person or his property shall be liable for punishment, suspension or expulsion under the provisions of this title. When a pupil defaces or damages school property, as defined above, his parent or guardian shall be liable for the cost of repair or replacement upon the complaint of the teacher, principal, superintendent or any trustee and the proof of such damage.

In addition to the sanctions prescribed in this section, the trustees of a high school district may deny a high school pupil the honor of participating in the graduation exercise or

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exclude a high school pupil from participating in school activities. Such action shall not be taken until the incident or infraction causing such consideration has been investigated and the trustees have determined that the high school pupil was involved in such incident or infraction.

Section 124. Section 75-6311. Suspension and expulsion. As provided in sections 75-6109 and 75-6113, any pupil may be suspended by a teacher, superintendent or principal. The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent or principal in suspending a pupil and to define the circumstances and procedures by which the trustees may expel a pupil. Expulsion shall be a disciplinary action available only to the trustees.

Section 125. Section 75-6312. Secret organization prohibited. It shall be unlawful for any pupil to participate in or be a member of any secret fraternity or other secret organization that is in any degree a school organization. It also shall be unlawful for any pupil or other person to solicit any pupil to join any such prohibited secret fraternity or other secret organization. Any person violating the provisions of this section shall be guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than five dollars ($5) or more than twenty-five dollars ($25) for each violation.

Section 126. Section 75-6313. Elementary tuition with mandatory approval. Any child may be enrolled in and attend an elementary school outside of the elementary district in which he resides when such elementary school is located: (1) in any other district of the county of his residence, (2) in

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a county adjoining his county of residence, or (3) in a district of another state that is adjacent to the county of his residence. When a parent or guardian of a child wishes to have his child attend a school under the provisions of this section, he shall apply to the county superintendent of the county of his residence before the first day of July of the school fiscal year for which he seeks approval except in those cases when substantial changes in circumstances occurred subsequently to justify later application. Such application shall be made on a tuition agreement form supplied by the county superintendent and shall be approved by (1) the trustees of the elementary district in which the child resides, (2) the trustees of the district where the child wishes to attend school, and (3) the county superintendent of the child's residence before permission to enroll in and attend a school outside of the district under the provisions of this section shall be granted.

In considering the approval of a tuition application, the tuition approval agents prescribed in this section shall approve such application for a resident child when: (1) the child resides less than three (3) miles from the school which he wishes to attend and more than three (3) miles from any school of his resident elementary district;

(2) the child resides more than three (3) miles from any school of his resident elementary district and such district does not provide transportation under the provisions of this title;

(3) the child resides more than three (3) miles from any school of his resident elementary district and the resident district does not provide transportation under the pro-

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visions of this title, and school bus transportation is furnished by the district operating the school which he wishes to attend;

(4) the child is a member of a family who must send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located provided such child resides more than three (3) miles from an elementary school of the resident district or the parent must move to the elementary district where the high school is located in order to enroll the other child in high school; or

(5) the child has been declared by a district court a dependent and neglected child, as defined in section 10-501, R.C.M., 1947, or a juvenile delinquent child, as defined in section 10-602, R.C.M., 1947, and such child has been ordered to be placed in a duly licensed child care institution which is also approved by the state department of public welfare, and as a result of the order the child is required to attend elementary school outside of the district of his residence. For purposes of this subsection the prescribed geographic relationship of the receiving district to the district of residence shall not apply.

The trustees of the district where the school to be attended is located shall have the authority to disapprove a tuition agreement that satisfies any of the mandatory approval conditions specified in subsections (1), (2), (3), (4) or (5) above when they shall find that due to insufficient room and overcrowding the accreditation of the school would be adversely affected by the acceptance of the child. In the event of

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disapproval, the trustees shall so notify the parent in writing within fifteen (15) days of the first receipt of the application.

Section 127. Section 75-6314. Elementary tuition with discretionary approval. In considering the approval of a tuition application that is not required to be approved under the provisions of section 75-6313, the tuition approval agents prescribed in section 75-6313 may approve such application when such approval agents, individually, determine that the tuition agreement should be approved because of: (1) the distance and road conditions between the child's residence and any school of his resident district;

(2) the trading center of the child's parents;

(3) an opportunity to live with his relatives;

(4) dormitory facilities in the district to be attended;

(5) the living conditions of the child's family;

(6) the availability of transportation; or

(7) the type of educational program available in the school to be attended.

Section 128. Section 75-6315. Distances, notification and appeal for elementary tuition purposes. In considering any approval of an application submitted under the provisions of section 75-6313 or section 75-6314, the approval agents shall determine mileage distances on the basis of the shortest practical route between the child's residence and the school building, and they shall determine the child's residence on the basis of the provisions of section 83-303, R.C.M., 1947.

The county superintendent shall notify the parent or guardian and the trustees of the districts involved in the tuition application, of the tuition agreement approval or dis-

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approval. If a tuition agreement is disapproved by any approval agent, the parent may appeal such disapproval to the county superintendent and, subsequently, to the superintendent of public instruction under the provisions for the appeal of controversies in this title. The approval of any tuition agreement by the approval agents or upon appeal shall authorize the child named in such agreement to enroll in and attend the school named in such agreement for the ensuing school fiscal year.

The rate of tuition and the budgeting and payment procedure prescribed in section 75-7201 shall be applicable to any tuition application approved under the provisions of this section.

Section 129. Section 75-6316. High school tuition. Any child may be enrolled in and attend a high school outside of the county in which he resides when such high school is located in any county of the state of Montana or in a county of another state that is adjacent to the state of Montana. When a parent or guardian of a child wishes to have his child attend a school under the provisions of this section, he shall apply to the county superintendent of the county of his residence before the first day of July of the school fiscal year for which he seeks approval except in those cases when substantial changes in circumstances occurred subsequently to justify later application. Such application shall be made on a tuition agreement form supplied by the county superintendent and shall be approved by the trustees of the district where the child wishes to attend school and the county superintendent of the child's county of residence before permission to enroll in and attend a school outside of the county under the pro-

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visions of this section shall be granted.

The county superintendent shall approve a tuition application when a child lives closer to a high school of another county than any high school located within his resident county or, when due to road or geographic conditions, it is impractical to attend a high school in his resident county. In approving a tuition agreement under this provision, the county superintendent may require the child to attend the high school closest to his residence. The county superintendent may approve any other tuition application that satisfies the geographic requirements of this section.

The trustees of the district where the child wishes to attend school shall approve or disapprove any tuition application submitted to them under the provisions of this section within fifteen (15) days after the receipt of the application.

The county superintendent shall notify the parent or guardian, and the trustees of the district where the child wisnes to attend school of the tuition agreement approval or disapproval. If a tuition agreement is disapproved by the county superintendent, the parent may appeal such disapproval to the county superintendent for his reconsideration and, subsequently, to the superintendent of public instruction under the provision for the appeal of controversies in this title. The approval of any tuition agreement by the approval agents or upon appeal shall authorize the child named in such agreement to enroll in and attend the school named in such agreement for the ensuing school fiscal year.

Section 139. Section 75-6317. Reporting, budgeting and payment for high school tuition. At the close of the school term of each school fiscal year and before the fifteenth day

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of July, the trustees of each high school district shall report to the county superintendent of the county in which the district is located: (1) the names, addresses, and resident counties of the pupils attending the schools of the district under an approved tuition agreement;

(2) the number of days of school attended by each pupil; and

(3) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, shall have the authority to waive.

When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the county superintendent of each county in which the reported pupils reside.

When the county superintendent of any county receives a tuition report or reports for high school pupils residing in his county and attending an out-of-county high school under approved tuition agreements, he shall determine the total amount of tuition due such out-of-county high schools on the basis of the following per pupil schedule: (1) three hundred dollars ($300) per pupil when the ANB of the attended school is one hundred (100) or less;

(2) two hundred seventy-five dollars ($275) per pupil when the ANB of the attended school is more than one hundred (100) but less than three hundred one (301); or

(3) two hundred fifty dollars ($250) per pupil when the ANB of the attended school is three hundred one (301) or more.

The total amount of the high school tuition determined under the rate schedule, and in consideration of any tuition waivers, shall be financed by the county basic sspecial tax for high

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schools as provided in section 75-6914.

In December, the county superintendent shall cause the payment by county warrant of the high school tuition obligations established under this section out of the first monies realized from the county basic special tax for high schools. The payment shall be made to the county treasurer of the county where each high school entitled to tuition is located. The county treasurer shall credit such tuition receipts to the general fund of the applicable high school district, and the tuition receipts shall be used in accordance with the provisions of section 75-6926.

Section 131. Section 75-6318. Reciprocal tuition agreement with adjoining state. The superintendent of public instruction shall have the authority to execute a reciprocal tuition agreement with the superintendent of public instruction or a department of education of any state adjoining Montana to allow the eligible children of Montana to attend school in the adjoining state and to allow children of the adjoining state to attend school in Montana. In negotiating a reciprocal tuition agreement, the tuition rates prescribed by section 75-7201 and section 75-6317 shall be waived and the reciprocal tuition rate may be negotiated as a flat amount or an actual-cost-per-pupil amount. The superintendent of public instruction shall supply a copy of any reciprocal tuition agreement that is executed to the county superintendent of each county that may be affected by such agreement.

Any tuition agreement approved under the provisions of sections 75-6313, 75-6314 or 75-6316 for a child's attendance at a school outside of the state shall be completed in accordance with the applicable reciprocal tuition agreement.

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Section 132. Section 75-6319. High school tuition for public institution at Twin Bridges. Whenever high school pupils are inmates of the Montana children's center at Twin Bridges and attend high school in Twin Bridges, the superintendent of public instruction shall pay four hundred dollars ($400) per pupil for each pupil who has attended forty (40) or more days of school in such district. The annual payment shall be made from the state equalization aid account to the county treasurer for the credit of the Twin Bridges high school general fund immediately after the end of the school fiscal year of attendance and after the verification of the claim submitted by Twin Bridges high school district. An approved tuition agreement shall not be required under this section.

Section 133. Section 75-6320. Individual tuition for elementary pupil. No provision of this title shall be construed to deny a parent the right to send his child, at his own expense, to any elementary school of a district other than his resident district when the parent has agreed to pay the tuition acceptable to the trustees of the district where the school is located. The trustees of the district where the school is located may allow the attendance of a child under the provisions of this section at their discretion. When the attendance is approved, the trustees shall charge tuition at the same rate prescribed by section 75-7201 reduced by any amount which is uniformly waived by the trustees for all tuition payments. However, under this section, tuition shall be waived when the parent of the child paid two hundred dollars ($200) or more in district and county property taxes during the immediately preceding school fiscal year for the benefit

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and support of the district in which the child will attend school.

Section 134. Section 75-6321. Individual tuition for high school pupil. Any child eligible to attend high school may attend school in any high school district of his county of residence without payment of tuition.

No provision of this title shall be construed to deny a parent the right to send his child, at his own expense, to any high school outside of his county of residence when the parent agreed to pay the tuition acceptable to the trustees of the high school district operating such high school. When the attendance is approved, the parent shall pay tuition at the rate fixed by the trustees.

Section 135. Section 75-6322. Fees. The trustees of any district may require pupils in the commercial, industrial arts, music, domestic science, scientific or agricultural courses to pay reasonable fees to cover the actual cost of breakage and of excessive supplies used.

Section 136. Section 75-6323. Extracurricular fund for pupil functions. The government of the pupils of the school within a district or the administration of a school on behalf of the pupils may establish an extracurricular fund for the purposes of the receipts and expenditures of money collected for pupil extracurricular functions with the approval of the trustees of the district. All extracurricular monies of any pupil organization of the school shall be deposited and expended by check from a bank account maintained for the extracurricular fund.

An accounting system for the extracurricular fund recommended by the state examiner shall be implemented by the

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trustees. Such acounting system shall provide for: (1) the internal control of the cash receipts and expenditures of the money; and

(2) a general account that can be reconciled with the bank account for the extracurricular fund and reconciled with the detailed accounts within the extracurricular fund maintained for each student function.

The trustees of the district shall cause an annual audit of the extracurricular fund by retaining a qualified accountant or the state examiner to perform such audit. Whichever person the trustees wish to retain, they shall notify the state examiner of their decision by the first day of January of the school fiscal year to be audited. If the state examiner performs the audit, a fee of sixty dollars ($60) per day per man shall be paid from the extracurricular fund or district monies to the state examiner for deposit in the state treasury as provided by law.

The auditor shall file a certified copy of the audit report with the county superintendent. The county superintendent shall publish notice in a newspaper of the district or county of the filing and the fact that it is open to public inspection.

Section 137. Section 75-6401. Definition. As used in this title, unless the context clearly indicates otherwise: "school election" means any election conducted by a district or community college district for the purpose of electing trustees, for authorizing taxation, for authorizing the issuance of bonds by an elementary district or a high school district, or for accepting or rejecting any proposition that may be presented to the electorate for decision in accordance

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with the provisions of this title.

Section 138. Section 75-6402. Precedence of school election provisions. Unless specifically identified in any section of the election laws prescribed in title 23, R.C.M., 1947, school elections shall be governed by the provisions of this title. Should there be a conflict between the requirements of title 23 and the provisions of this title regulating school elections, the provisions of this title shall govern.

Section 139. Section 75-6403. Election by ballot. All school elections shall be by ballot.

Section 140. Section 75-6404. Regular school election day and special school elections. The first Saturday of April of each year shall be the regular school election day. Unless otherwise provided by law, special school elections may be conducted at such times as determined by the trustees.

Section 141. Section 75-6405. Poll hours. The polls for any school election in any district shall open not later than 12 noon. The trustees may order the polls to open earlier, but no earlier than 8 a.m. However, the polls shall open at 8 a.m. if the school election is held on the same day, at the same polling places and with the same judges and clerks as a general, primary, county or city election.

Once opened, the polls shall be kept open continuously until 8 p.m. except that whenever all the registered electors at any poll have voted, the poll shall be closed immediately.

Section 142. Section 75-6406. Conditions under which school election called. At least thirty-five (35) days before any school election, the trustees of any district shall call such school election by resolution, stating the date and pur-

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pose of such election, and conduct it in accordance with the procedures required by law, when: (1) an election must be held on the regular school election day;

(2) in their discretion, such trustees order an election for a purpose authorized by law;

(3) the county superintendent orders an election in accordance with the law authorizing such an order;

(4) the board of education orders an election in accordance with the law authorizing such an order;

(5) the county commissioners order an election in accordance with the law authorizing such an order;

(6) the board of trustees of a community college district orders an election in accordance with the law authorizing such an order, in which case the community college district shall bear its share of the cost of such election; or

(7) a school election is required by law under any other circumstances.

The resolution calling any school election shall be transmitted immediately to the county registrar in order to enable him to close the registration and prepare the lists of registered electors as required by school election laws.

Section 143. Section 75-6407. Time limitation for conduct of election. Whenever the trustees of any district receive an order to call an election, they shall conduct such election any time within sixty (60) days after the date of the order unless the law or order otherwise regulates the day or timing of such election.

Section 144. Section 75-6408. Resolution for poll hours, polling places, judges, and ballot format. At the trustee meeting when a school election is called, the trustees

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also shall: (1) Establish the time at which the polls are to open, if in their discretion they determine that the polls shall be open before 12 noon.

(2) Establish the polling places for such election. There shall be one polling place in each district unless the trustees establish additional polling places. If more than one polling place is established, the trustees shall define the boundaries for each polling place and such trustee defined polling place boundaries shall be coterminous with county precinct boundaries existing within a district. If the site of a polling place is changed from the polling place site used for the last preceding school election, special reference to the changed site of the polling place shall be included in the notice for such election.

(3) Appoint from among the qualified electors of the district, three judges for each polling place for such election and notify each judge of such appointment not less than ten days before the election.

(4) Establish the format of the ballot for the election unless the ballot format is specified by the law which authorizes the election.

Section 145. Section 75-6409. Election notice. When the trustees of any district call a school election, they shall give notice of the election not less than twenty (20) days nor more than thirty (30) days before the day of the election by posting notices in three public places in the district; provided that in incorporated cities and towns at least one notice shall be posted at a public place in each ward. Whenever, in the judgment of the trustees, the best interest of the district will be served by the supplemental

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publication of the school election notice in a newspaper or by a radio or television broadcast, the trustees may cause such notification to be made.

The notice of a school election, unless otherwise required by law, shall specify: (1) the date and polling places of the election;

(2) the hours the polling places will be open;

(3) each proposition to be considered by the electorate; and

(4) if there are trustees to be elected, the number of positions subject to election and the length of term of each position.

If more than one proposition is to be considerd at the same school election, each proposition shall be set apart and separately identified in the same notice, or published in separate notices.

Section 146. Section 75-6410. Qualifications of elector. Except as provided in section 75-6411, every person is entitled to vote at school elections if he has the following qualifications: (1) He has registered to vote with the county registrar in the manner provided by the general state election laws except in regard to the closure of elector registration as provided in section 75-6413;

(2) He is twenty-one (21) years of age or older;

(3) He has resided in the state one (1) year and in the district thirty (30) days immediately preceding the election at which he offers to vote; and

(4) He is a citizen of the United States.

No person convicted of a felony has the right to vote unless he has been pardoned.

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No person adjudicated insane has the right to vote unless he has been restored to capacity as provided by law.

Section 147. Section 75-6411. Additional elector qualifications for taxpayer status. If an election is held to authorize property taxation or to authorize indebting a district by the issuance of bonds, only that person is entitled to vote who: (1) possesses the qualifications and none of the disabilities established in section 75-6410, and

(2) is a taxpayer on property within the district and whose name appears on the last completed assessment roll of the county for state, county, and school taxes.

However, no such person otherwise qualified under this section shall be denied the right to vote by reason of the fact that the polling place for a general election for the precinct wherein he resides and is entitled to vote, lies within another district.

Section 148. Section 75-6412. Elector challenges. Any person offering to vote in a school election may be challenged by any elector of the district on any of the grounds for challenge established in section 23-3611, R.C.M., 1947. Such challenge shall be determined in the same manner, using the same oath as provided in chapter 36 of title 23, R.C.M., 1947.

Any person offering to vote in a school election to authorize property taxation or to authorize indebting a district by the issuance of bonds may be challenged by any elector of the district as to his taxpayer status and the judges shall administer the following oath to the challenged person: "You do swear (or affirm) that you are a taxpayer on the last assessment roll for this school district." Such oath or

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affirmation shall be reduced to writing and signed by the challenged person and sworn to before one of the election judges. If the voter takes the oath or affirmation, his vote shall be received; otherwise, it will be rejected. Such oath or affirmation shall be recorded in conformity with the provisions of section 23-3617, R.C.M., 1947, and the signed oath or affirmation shall be returned with the ballots to the trustees.

Any person who shall offer to vote and is denied the privilege to vote in a school election to authorize property taxation or to authorize indebting a district by the issuance of bonds because he is not identified as a "taxpayer" on the polling place list of registered electors may challenge the validity of the taxpayer designation of such list, and the judges shall administer the following oath to such person: "You do swear (affirm) that you are a taxpayer on the last assessment roll for this school district." Such oath or affirmation shall be reduced to writing and signed by the challenged person and sworn to before one of the election judges. If the voter takes the oath or affirmation, his vote shall be received; otherwise, it will be rejected. Such oath or affirmation shall be recorded in conformity with the provisions of section 23-3617, R.C.M., 1947, and the signed oath or affirmation shall be returned with the ballots to the trustees.

Any person who shall have been challenged under any of the provisions of this section or has challenged the taxpayer designation of the list of registered electors and who shall swear or affirm falsely before any school election judge shall be guilty of perjury and shall be punished accordingly.

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Section 149. Section 75-6413. Closure of registration. Registration for school elections shall close for thirty (30) days before any school election, but it shall not be necessary to publish any notice of such closing of registration.

Section 150. Section 75-6414. Lists of registered electors. After closing registration the county registrar shall prepare a list of registered electors for each polling place established by the trustees. The list for each polling place shall be prepared in the format of a precinct register book. The registrar shall stamp "taxpayer" beside the name of an elector who is a taxpayer on property within the district and whose name appears on the last completed assessment roll of the county for state, county, and school taxes to show that he is qualified to vote for a proposition in a school election requiring taxpayer status of the electors.

Section 151. Section 75-6415. Delivery of and charge for lists of registered electors. Before the day of the election, the registrar shall deliver a certified copy of the lists of registered electors for each polling place to the district which shall deliver them to the election judges prior to the opening of the polls. A charge of three cents ($.03) per name shall be paid by the district to the county for preparing the lists of registered electors.

Section 152. Section 75-6416. Absentee voting. A qualified registered elector who will be absent from the district or physically incapacitated and unable to go to the polls on the day of a school election may vote by casting an absentee ballot. The superintendent of public instruction shall prepare the form of application for absentee ballots and other forms necessary for absentee voting at school elections and may make

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necessary rules to carry out the purpose of absentee voting as established by the provisions of the general state election laws of Montana.

Section 153. Section 75-6417. Voting machines and electronic voting systems. Whenever voting machines or electronic voting systems are available to a district, such voting devices may be used for a school election. Any district that uses a voting machine or an electronic voting system shall do so in accordance with the provisions of chapter 38 or chapter 39 of title 23 of the Revised Codes of Montana. In construing the provisions of those chapters, the "county commissioners" and the "registrar" shall, for the purposes of this section, be considered to refer to trustees and "county" shall be considered to refer to district.

Section 154. Section 75-6418. General supervision and supplies. The trustees are the general supervisors of school elections. They are authorized to and shall administer oaths to election judges. Before the opening of the polls, the trustees shall cause the judges and each polling place to be supplied with: (1) a sufficient number of ballots for each proposition election or trustee election to be conducted;

(2) at least six (6) cards instructing electors in the process of how to vote;

(3) a list of electors prepared in the format of a precinct register book;

(4) a pollbook for the poll list;

(5) tally sheets;

(6) a sufficient number of booths, each provided with a door or a curtain to screen the voter from view and furnished adequately to enable the voter to prepare his ballot;

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(7) ballot boxes or canvas pouches with a lock and key; and

(8) any other supplies necessary for the proper conduct of the election.

Section 155. Section 75-6419. Clerk of election judges and appointment for absent judge. Before conducting the school election and on the day of the election, the judges shall designate one of their number to act as clerk of such election. If any of the judges appointed by the trustees are not present at the time for the opening of the poll, the electors present at that time may appoint a qualified elector for such election to act in the place of the absent judge.

Section 156. Section 75-6420. Election expenses. All expenses necessarily incurred in the matter of holding school elections shall be paid out of the school funds of the district, except when such expenses are by law to be shared by a community college district for which the district is conducting an election. The trustees may pay the election judges of a school election at a rate not to exceed the prevailing federal minimum wage per hour of service in connection with such election.

Section 157. Section 75-6421. Conduct of election. Election judges shall conduct school elections in a manner that insures a fair and unbiased determination of the matters put before the electorate, and see that each elector has an adequate opportunity to cast his vote. To that end election judges shall: (1) post at least one (1) instruction card in each voting booth and not less than three (3) such cards elsewhere about the polling place;

(2) proclaim the opening and closing of the polls;

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(3) insure that no more than one (1) person occupies a voting booth at one (1) time and that no person occupies a booth longer than is reasonably necessary;

(4) enforce the rules against certain prohibited conduct as provided in section 23-3605, R.C.M., 1947;

(5) aid a disabled elector in marking his ballot in the manner provided by section 23-3609, R.C.M., 1947; and

(6) follow the remaining provisions of chapter 36 of title 23, R.C.M., 1947, regulating the conduct of elections, and chapter 14 of title 94, R.C.M., 1947, except that no deviation from those regulations shall vitiate the election so long as it can reasonably be concluded that neither the outcome of the election nor any individual elector was prejudiced by such deviation.

Section 158. Section 75-6422. Delivery of ballot, pollbook, tally sheet, and certifying election result. The judges shall conduct school elections in the following manner: (1) The election judges shall deliver the ballots to the elector offering to vote and shall cause the recording of such elector's signature on the registered elector listing for the polling place.

(2) A pollbook shall be kept by the election clerk. The clerk shall record the name of each elector in the pollbook at the time his ballot is deposited in the ballot box. One pollbook may be kept for two or more school elections conducted simultaneously at the same poll.

(3) Immediately after closing the polls, the judges shall count ballots. If there are more ballots than the recorded number of electors in the pollbook, the judges shall draw by lot from the ballots, without seeing them, a sufficient

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number of ballots to equalize the number of ballots and the number of electors.

(4) After the number of electors and ballots have been equalized, the judges shall proceed to count the ballots. The clerk shall enter on the tally sheet for the trustee election the name of every person voted for trustee, grouping them by length of term of the trustee position for which they were a candidate. The votes cast for a person shall be tallied opposite his name. When a proposition is presented at a school election, the clerk shall enter "for" and "against" on the tally sheet and record each vote opposite the appropriate entry on the tally sheet. A separate tally sheet shall be kept for each election of trustees and for each proposition.

(5) After the votes have been entered on a tally sheet, the judges and clerk shall sign it and certify upon the tally sheet the following information:

(a) the number of votes cast for each person who received votes for trustee and the length of term for which he received these votes; or

(b) the total number of votes cast "for" and "against" a proposition.

The certified totals shall be verified by the judges as being correct to the best of their knowledge, before an officer authorized to administer oaths. No informality in such certification shall vitiate the election, if the number of votes for each person or for or against each proposition can reasonably be ascertained from each tally list.

(6) The school election judges shall return the pollbook, ballots, certified tally sheets, and the registered elector listing to the trustees of the district as soon as possible.

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Section 159. Section 75-6423. Trustees canvass of votes and issuance of election certificate. At the first regular or special meeting of the trustees conducted after the receipt of the certified tally sheets of any school election from all the polls of the district, the trustees shall canvass the vote. Such canvass shall include a redetermination of the total votes cast for each person for trustee or the total votes cast "for" and "against" each proposition, as shown on the tally sheet or sheets.

After the redetermination of the total votes cast, the trustees shall issue a certificate of election. In the case of a trustee election, the certificate shall be issued to the elected trustee and the county superintendent designating the term of the trustee position to which he has been elected. In the case of an election on a proposition, the trustees shall issue a certificate specifying the outcome of the election. The certificate shall be issued within fifteen (15) days after the election to that official or public body which ordered the election. When the election has been ordered by resolution of the trustees, the canvassed results shall be published immediately in a newspaper that will give notice to the largest number of people of the district.

Section 160. Section 75-6501. Definition of elementary and high school districts. As used in this title, except as defined in section 75-7102 for bonding purposes or unless the context clearly indicates otherwise, the term "district" means the territory, regardless of county boundaries, organized under the provisions of this title to provide public educational services under the jurisdiction of the trustees prescribed by this title. High school districts may encompass

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all or parts of the territory of one (1) or more elementary districts.

An elementary district is a district organized for the purpose of providing public education for all grades up to and including grade eight (8), and for preschool programs and kindergartens. A high school district is a district organized for the purpose of providing those public educational services authorized by this title for all grades beyond grade eight (8), including post-secondary programs, except those programs administered by community college districts or the Montana university system.

An elementary district shall be known as "District No. _____, _____ County" and a high school district, except a high school district where a county high school is operated, shall be known as "High School District No. _____, _____ County." Any district shall be a body corporate and, as such body corporate, may sue and be sued, contract and be contracted with, and acquire, hold, use and dispose of real or personal property for school purposes, within the limitations prescribed by law. Unless the context clearly indicates otherwise, the trustees of elementary districts and high school districts shall have the same types of powers, duties, and responsibilities authorized and imposed by the laws of Montana.

Unless the context clearly indicates otherwise, an elementary district operating a high school in a county that has not been divided into high school districts shall be considered a high school district under this title and the trustees of the elementary district shall be the trustees of the high school district. Such an elementary district operating

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a high school shall not have the bonding authority of a high school district. However, the elementary district may exercise its bonding authority, in the manner provided by law, for high school purposes.

As used in this title, unless the context clearly indicates otherwise, a county high school shall be considered a high school district subject to the limitations prescribed by law for a county high school as a result of its being a part of the county government. The boundaries of the high school district for a county high school shall be: (1) the high school district boundaries established by the county high school boundary commission; or

(2) if no such boundaries have been established, the county boundaries, except for any territory located in a joint high school district.

Any county high school recognized as a high school district under the provisions of subsection (2) above shall not have a bonding authority. Instead, the county shall exercise its bonding authority in the manner provided in section 75-7133.

Section 161. Section 75-6502. Confirmation of existing district boundaries. All districts established under the laws of the state of Montana or the territory of Montana and defined by the boundaries described in the records of each county on the effective date of this act shall be recognized as the districts of the state on such date.

Section 162. Section 75-6503. District classification. Each elementary district shall have a classification of: (1) first class, if it has a population of eight thousand (8,000) or more;

(2) second class, if it has a population of one thou-

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sand (1,000) or more but less than eight thousand (8,000); or

(3) third class, if it has a population of less than one thousand (1,000).

The population of an elementary district shall be determined by the county superintendent on the basis of the best available population information for the district or; if the county superintendent deems it more equitable, he shall multiply by three (3) the approved number of school census children from the last completed census report of the district who are six (6) years of age or older but who have not reached their twenty-first birthday.

The county superintendent shall establish the classification of each elementary district in the county on the basis of the population determined for the district and the district classification criteria prescribed in this section. Whenever the population of an elementary district increases or decreases requiring an adjustment of the district classification according to the criteria prescribed in this section, the county superintendent shall declare such district's classification to be changed in accordance with the determined population, except that the classification of an elementary district shall not be changed more than once every five (5) years.

Whenever the county superintendent changes an elementary district's classification with the result that a larger number of trustees is required on the elementary board of trustees, the increased number of trustee positions shall be filled in the manner provided for filling trustee vacancies. Such positions shall be subject to election on the next regular school election day. If the county superintendent changes an

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elementary district's classification with the result that a lesser number of trustees is required, the next elementary trustee positions that become vacant under any circumstances shall not be filled until the number of elementary trustee positions has been reduced to the number required by law.

The classification of a high school district shall be the same as the classification of the elementary district where the high school building is located. Whenever the classification of such elementary district is changed, the classification of a high school district shall be changed accordingly, and the county superintendent shall adjust the number of additional high school district trustee positions in accordance with the method prescribed in section 75-5905 for the determination of the number of additional trustee positions required for a high school district. An increased number of trustee positions shall be filled by the appointment of the county superintendent and such positions shall be subject to election at the next regular trustee election. When the number of positions is decreased, the next additional high school trustee positions that become vacant under any circumstances shall not be filled until the number of trustee positions has been reduced to the number required by law.

Section 163. Section 75-6504. Permanent record of district boundaries. The board of county commissioners shall maintain a permanent record which plainly and definitely describes the boundaries of each district within the county. The county superintendent shall keep a transcript of the record in his office and shall be responsible for keeping the record current.

If the county superintendent determines that the

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boundaries of any elementary district or high school district are in conflict or are incorrectly described, he shall change, harmonize, and describe them accurately, and he shall make a report of such boundary adjustments to the board of county commissioners. When the board of the county commissioners approves a district boundary report submitted by the county superintendent, such boundaries shall be the legal boundaries and description of the district within the county. Whenever district boundaries are clarified under this section, the county superintendent shall supply the trustees of the district with the legal descriptions of the boundaries of their district.

Section 164. Section 75-6505. Time limitation for district boundary changes. No elementary district shall be created nor shall any elementary district boundaries be changed between the first day of March and the second Monday of August of any calendar year except when: (1) the entire territory of a district is annexed or attached to another district;

(2) the entire territory of the portion of a joint district located in one (1) county is annexed or attached to another district; or

(3) two (2) or more districts are consolidated in their entirety.

Section 165. Section 75-6506. Elementary district consolidation. Any two (2) or more elementary districts in one (1) county may consolidate to organize an elementary district. The consolidation shall be conducted under the following procedure: (1) At the time the consolidation proposition is first considered, the districts involved shall jointly deter-

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mine whether the consolidation shall be made with or without the mutual assumption of the bonded indebtedness of each district by all districts included in the consolidation proposition.

(2) A consolidation proposition may be introduced, individually, in each of the districts by either of the two following methods:

(a) the trustees may pass a resolution requesting the county superintendent to order an election to consider a consolidation proposition involving their district; or

(b) not less than twenty per cent (20%) of the electors of an elementary district who are qualified to vote under the provisions of section 75-6410 may petition the county superintendent requesting an election to consider a consolidation proposition involving their resident district.

(3) When the county superintendent has received a resolution or a valid petition from each of the districts included in the consolidation proposition, he shall, within ten (10) days after the receipt of the last resolution or petition and as provided by section 75-6406, order the trustees of each elementary district included in the consolidation proposition to call a consolidation election.

(4) Each district, individually, shall call and conduct an election in the manner prescribed in this title for school elections. In addition:

(a) if the districts to be consolidated are to mutually assume the bonded indebtedness of each district involved in the consolidation, the consolidation election also shall follow the procedures prescribed in section 75-6509; or

(b) if the districts to be consolidated are not to

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mutually assume the bonded indebtedness of each district involved in the consolidation, the consolidation election also shall follow the procedures prescribed in section 75-6510.

(5) After the county superintendent has received the election certification under the provisions of section 75-6423 from the trustees of each district included in a consolidation proposition, he shall determine if the consolidation proposition has been approved in each district. If each district has approved the consolidation proposition, he shall, within ten (10) days after the receipt of the last election certificate, order the consolidation of such districts. If it be for consolidation with the mutual assumption of bonded indebtedness of each elementary district by all districts included in the consolidation order, such order shall specify that all the taxable real and personal property of the consolidated district shall assume the bonded indebtedness of each district. In addition, such order shall specify the number of the consolidated elementary district and shall contain the county superintendent's appointment of the trustees for the consolidated district who shall serve until a successor is elected at the next succeeding regular school election and qualified. The superintendent shall send a copy of such order to the board of county commissioners and to the trustees of each district incorporated in the consolidation order. If any district included in the consolidation proposition disapproves the consolidation proposition, the consolidation of all districts shall fail and the county superintendent shall notify each district of the disapproval of the consolidation proposition.

Section 166. Section 75-6507. Conditions for elementary

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district annexation. An elementary district may be annexed to another elementary district located in the same county when: (1) a third-class district where a high school is not located is annexed to a third-class district where a high school is located, a first-class district, or a second-class district.

(2) a third-class district where a high school is located is annexed to a first-class district or a second-class district; or

(3) a second-class district is annexed to a first-class district.

The annexation of elementary districts shall be conducted under the provisions of section 75-6508.

Section 167. Section 75-6508. Elementary district annexation. An elementary district may be annexed to another elementary district located in the same county in accordance with the following procedure: (1) At the time the annexation proposition is first considered, the districts involved shall jointly determine whether the annexation shall be made with or without the joint assumption of the bonded indebtedness of the annexing district by the district to be annexed and the annexing district.

(2) An annexation proposition may be introduced in the district to be annexed by either of the two following methods:

(a) the trustees may pass a resolution requesting the county superintendent to order an election to consider an annexation proposition for their district; or

(b) not less than twenty per cent (20%) of the electors of the district who are qualified to vote under the provisions of section 75-6410 may petition the county superintendent requesting an election to consider an annexation proposition

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for their district.

(3) Before ordering an election on the proposition the county superintendent shall first receive from the trustees of the annexing district a resolution giving him the authority to annex such district.

(4) When the county superintendent has received authorization from the annexing district, he shall, within ten (10) days after the receipt of the resolution or a valid petition from the district to be annexed and as provided by section 75-6406, order the trustees of the district to be annexed to call an annexation election.

(5) The district shall call and conduct an election in the manner prescribed in this title for school elections. In addition:

(a) if the district to be annexed is to jointly assume with the annexing district, the bonded indebtedness of the annexing district, the annexation election shall also follow the procedures prescribed in section 75-6509; or

(b) if the district to be annexed is not to jointly assume with the annexing district, the bonded indebtedness of the annexing district, the annexation election shall also follow the procedures prescribed in section 75-6510.

(6) After the county superintendent has received the election certificate from the trustees of the district conducting the annexation election under the provisions of section 75-6423 and if the annexation proposition has been approved by such election, he shall order the annexation of the territory of the elementary district voting on such proposition to the elementary district that has authorized the annexation to its territory. Such order shall be issued within ten (10)

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days after the receipt of the election certificate and, if it be for annexation with the assumption of bonded indebtedness, shall specify that all the taxable real and personal property of the annexed territory shall jointly assume with the annexing district the existing bonded indebtedness of the annexing district. The county superintendent shall send a copy of the order to the board of county commissioners and to the trustees of the districts involved in the annexation order. If the annexation proposition is disapproved in the district to be annexed, it shall fail and the county superintendent shall notify each district of the disapproval of the annexation proposition.

Section 168. Section 75-6509. Consolidation or annexation election with assumption of bonded indebtedness. A consolidation election involving the mutual assumption of bonded indebtedness by the elementary districts to be consolidated, as prescribed in section 75-6506, or an annexation election involving the joint assumption of bonded indebtedness by the elementary district to be annexed, as prescribed in section 75-6508, shall comply with the following procedures in addition to those prescribed by this title for other school elections: (1) Ballots in two distinctly different colors shall be used, and separate ballot boxes shall be provided to segregate the ballots one color from another.

(a) In a consolidation election both colored ballots shall read, after stating the consolidation proposition, "FOR consolidation with assumption of bonded indebtedness" and "AGAINST consolidation with assumption of bonded indebtedness."

(b) In an annexation election both colored ballots shall read, after stating the annexation proposition, "FOR annexa-

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tion with assumption of bonded indebtedness" and "AGAINST annexation with assumption of bonded indebtedness."

(2) Electors who are taxpayers and qualified to vote under the provisions of section 75-6411 shall vote with ballots of one of the colors, and non-taxpaying electors who are qualified to vote under the provisions of section 75-6410 shall vote with ballots of the other color.

(3) When the trustees in each elementary district conducting an election canvass the vote under the provisions of section 75-6423, they shall decide according to the following procedure, if the proposition has been approved:

(a) Determine if a sufficient number of the qualified, taxpaying electors of the district have voted to validate the election and have voted to approve the election proposition in the same manner required for bond elections by section 75-7117;

(b) When the proposition is approved under subsection (3)(a), determine the number of votes "FOR" and "AGAINST" the proposition that have been cast on the separate ballots by the electors who were not qualified as taxpayers;

(c) Add the vote tallies "FOR" and "AGAINST" as determined in subsection (3)(b) to the corresponding tallies determined in subsection (3)(a).

The proposition shall be approved in the district if the sums of the "FOR" and "AGAINST" votes of the two categories of electors show that a majority of the total votes cast approved the proposition. If the proposition is disapproved under either the provisions of subsection (3)(a) or (3)(c), the proposition shall be disapproved in the district.

Section 169. Section 75-6510. Consolidation or annexation election without assumption of bonded indebtedness. A

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consolidation election without the assumption of bonded indebtedness by the elementary districts to be consolidated, as prescribed in section 75-6506, or an annexation election without the joint assumption of bonded indebtedness by the elementary district to be annexed, as prescribed in section 75-6508, shall be conducted in the manner prescribed by this title for school elections. Any elector qualified to vote under the provisions of section 75-6410 may vote at the election.

In a consolidation election the ballots shall read, after stating the consolidation proposition, "FOR consolidation without assumption of bonded indebtedness" and "AGAINST consolidation without assumption of bonded indebtedness." The consolidation proposition shall be approved by a district if a majority of those voting in a district approve the proposition, otherwise it shall be disapproved.

In an annexation election the ballots shall read, after stating the annexation proposition, "FOR annexation without assumption of bonded indebtedness" and "AGAINST annexation without assumption of bonded indebtedness." The annexation proposition shall be approved by a district if a majority of those voting approve the proposition, otherwise it shall be disapproved.

Section 170. Section 75-6511. Elementary district consolidation of two or more counties to organize joint elementary district. Any two (2) or more elementary districts located in more than one (1) county and whose territory is contiguous may consolidate to organize a joint elementary district. When a joint district consolidation proposition is to be introduced and considered in two (2) or more districts, the consolidation procedure for elementary district consolidation without the

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assumption of bonded indebtedness prescribed in sections 75-6506 and 75-6510 shall be used except that each district shall submit its resolution or petition and its election certificate to the county superintendent of its resident county and the several county superintendents shall jointly perform the duties prescribed for the county superintendent in section 75-6506.

Section 171. Section 75-6512. Elementary district abandonment. The county superintendent shall declare an elementary district to be abandoned and order the attachment of the territory of such district to a contiguous district of the county when: (1) a school has not been operated by a district for at least one hundred eighty (180) days under the provisions of section 75-7402 for each of three (3) consecutive school fiscal years; or

(2) there is an insufficient number of residents who are qualified electors of the district that can and will serve as the trustees and clerk of the district so that a legal board of trustees can be organized.

The county superintendent shall notify the elementary district that has not operated a school for two (2) consecutive years before the first day of the third year that the failure to operate a school for one hundred eighty (180) days during the ensuing school fiscal year shall constitute gounds for abandonment of such district at the conclusion of the succeeding school fiscal year. Failure by the county superintendent to provide such notification shall not constitute a waiver of the abandonment requirement prescribed in subsection (1) above.

Any abandonment under subsection (1) shall become effec-

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tive on the first day of July. Any abandonment under subsection (2) of an elementary district shall become effective immediately on the date of the abandonment order.

Section 172. Section 75-6513. Joint elementary district abandonment. Any joint elementary district shall be abandoned for the reasons prescribed in section 75-6512 or when the taxable value of the taxable property of the portion of the joint district that is located within any one of the counties is of so little value that the continued inclusion of such portion in the joint district is not justified. The county superintendent designated by section 75-6720 for school budgeting purposes shall be responsible for ordering the abandonment of the joint district and shall immediately send a copy of such order to the county superintendent of each county with territory in the joint district.

After the issuance or receipt of the abandonment order, each county superintendent shall attach the territory within his county to a contiguous elementary district within his county; except when the district is abandoned because of the lack of taxable property in one county's territory of the district and a school is operated in another county's territory of the district which territory has a taxable value of seventy-five thousand dollars ($75,000) or more, the county superintendent of the county where such territory is located shall not attach it to another district. Such territory shall continue to operate as an elementary district within the county.

Any abandonment of a joint elementary district shall become effective on the date of the abandonment order except that district abandonments under the provisions of subsection

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(1) of section 75-6512 shall become effective on the first day of July.

Section 173. Section 75-6514. Joint elementary district dissolution. Any joint elementary district may be dissolved. A proposition to dissolve a joint elementary district shall be introduced by a petition signed by a majority of the electors, qualified under the provisions of section 75-6410, who reside in the territory of the joint district that is located within one (1) county. Such petition shall be addressed and presented to the county superintendent of the county of residence of the petitioners.

Whenever a county superintendent receives a valid petition for the dissolution of a joint elementary district, he shall immediately notify the county superintendents of all the other counties with territory located in the joint district. The county superintendents jointly shall, within ten (10) days after the receipt of the petition and as provided by section 75-6406, order the trustees of the joint district to call an election. The trustees shall call and conduct, at the same time, separate elections in each portion of the joint district that is located in a separate county. Such elections shall be called and conducted in the manner prescribed in this title for school elections and shall be considered as if each were an election in a separate district. An elector who may vote at a joint district dissolution election shall be qualified to vote under the provisions of section 75-6410. The election judges for each separate election in the joint district shall send the election certificate to the county superintendent of the county in which they serve.

After the receipt of the election certificates, the

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county superintendents shall jointly determine the result of such election on the following basis: (1) If a majority of all the joint district electors voting at each election conducted in the joint district are in favor of the dissolution of the joint district, the dissolution of the joint elementary district shall be approved;

(2) If two-thirds (2/3) of the electors voting at one of the elections conducted in a county's portion of the joint district vote in favor of the joint district dissolution, the dissolution of that portion of such joint district may be approved if all the county superintendents involved in such dissolution proposition agree that such dissolution will not place an undue hardship on any other county's portion of the joint district and there is no good and sufficient reason why such dissolution should not be made; or

(3) If the conditions of either subsection (1) or (2) cannot be satisfied, the dissolution of the joint district shall be disapproved.

The county superintendents shall jointly order the joint elementary district dissolution if the proposition is approved and, whether it has been approved or disapproved, shall jointly notify the joint district of the result. The dissolution of a joint district shall become effective on the first day of the ensuing school fiscal year.

When the dissolution of a joint elementary district has been approved and ordered under subsection (1) above, the county superintendent of each county shall individually order the attachment of the territory of the dissolved joint elementary district within his county to a contiguous elementary district within his county; except when a school is operated

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in such territory, in which case the territory shall operate as a separate elementary district of the county.

When the dissolution of a joint elementary district has been approved and ordered under the provisions of subsection (2) above, the county superintendent of the county where the dissolved portion of the joint elementary district is located shall attach such territory to a contiguous elementary district within his county.

In the event a dissolution proposition is disapproved, no subsequent joint elementary district dissolution election shall be held within three (3) years thereafter.

Section 174. Section 75-6515. Boundary change of licensed child care institution elementary district. The boundaries of any elementary district created under the provisions of chapter 105, laws of 1965 shall be changed by the acquisition of any land contiguous to the district by the licensed child care institution for which such district was created. The boundaries shall be changed to include the additional acquired land in the district.

Section 175. Section 75-6516. Transfer of territory from one elementary district to another. A majority of the electors of any elementary district, who are qualified to vote under the provisions of section 75-6411 and who reside in territory which is part of an elementary district, may petition the county superintendent to transfer such territory to another elementary district when: (1) such territory is contiguous to the district to which it is to be attached;

(2) such territory is not located within three miles, over the shortest practical route, of an operating school of the district from which it is to be detached; and

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(3) the transfer of such territory will not reduce the taxable value of the district to less than seventy-five thousand dollars ($75,000) unless the remaining territory of the district will contain not less than fifty thousand (50,000) acres of nontaxable Indian land.

The petition shall be addressed to the county superintendent and shall describe the territory that is requested to be transferred and to what district it is to be transferred, state the reasons why such transfer is requested, and state the number of elementary school-age children residing in such territory.

On receipt of a valid petition for a territory transfer, the county superintendent shall file such petition, set a hearing place, date, and time for consideration of the petition that is not more than forty (40) days after the receipt of the petition and give notice of the place, date, and time of the hearing. The notices shall be posted in the districts affected by the request in the manner prescribed in this title for school elections, with at least one such notice posted in the territory to be transferred.

The county superintendent shall conduct the hearing as scheduled, and any resident or taxpayer of the affected districts shall be heard. If the county superintendent shall deem it advisable and in the best interests of the residents of such territory, he shall grant the petitioned request and order the change of district boundaries to coincide with the boundary description in the petition. Otherwise, he shall, by order, deny the request. Either of the orders shall be final thirty (30) days after its date unless it is appealed to the board of county commissioners by a resident or taxpayer

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of either district affected by the territory transfer. The decision of the board of county commissioners, after a hearing on such matter and consideration of the material presented at the county superintendent's hearing, shall be final.

Whenever a petition to transfer territory from one elementary district to another elementary district would create a joint elementary district or affect the boundary of an existing joint elementary district, the petition shall be presented to the county superintendent of the county where the territory is located. Such county superintendent shall notify any other county superintendents of counties with districts affected by such petition and the duties prescribed in this section for the county superintendent and the board of county commissioners shall be performed jointly by such county officials.

Section 176. Section 75-6517. Limitations for creation of new elementary district. A new elementary district may be created out of the territory of an existing elementary district or districts when: (1) the taxable value of the taxable property of the territory proposed to be included in such new district is seventy-five thousand dollars ($75,000) or more, except that when fifty thousand (50,000) acres or more of such new district are nontaxable Indian land, this limitation shall not be applicable;

(2) the taxable value of the taxable property of each existing district from which territory would be detached will be seventy-five thousand dollars ($75,000) or more after the territory is detached; and

(3) the number of school census children between the ages of six (6) and sixteen (16) years according to the last

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completed district census reports in any of the existing districts is not reduced to less than fifteen (15).

Section 177. Section 75-6518. Procedure for creation of a new elementary district. The petition requesting the creation of a new elementary district out of the territory of an elementary district or districts shall be addressed to the county superintendent and shall: (1) describe the territory that is requested to be incorporated in the new district and the taxable value of such territory as shown by the last completed assessment roll;

(2) state the reasons why the creation of a new district is requested; and

(3) be signed by the parents or guardians of not less than ten (10) children between the ages of six (6) and sixteen (16) years who reside in the territory that would be included in the new district and who reside more than three (3) miles over the shortest practical route from an operating school.

When a county superintendent receives a valid petition requesting the creation of a new district, he shall file such petition, set a hearing place, date, and time for consideration of such petition that is not more than forty (40) days after the receipt of the petition and give notice of the place, date, and time of the hearing. The notices shall be posted in the districts affected by the request in the manner prescribed in this title for school elections, with at least one such notice posted in the territory to be included in the new district.

The county superintendent shall conduct the hearing as scheduled unless before or at the time of the hearing he

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receives a protest petition signed by a majority of the electors of the proposed new district who are qualified to vote under the provisions of section 75-6410. A valid protest petition shall conclusively deny the creation of a new district. If a hearing is conducted, any resident or taxpayer of the affected districts shall be heard. If the county superintendent shall deem it advisable and in the best interests of the residents of the proposed new district, he shall grant the petitioned request and order the creation of a new elementary district with its boundaries coinciding with the boundaries defined in the petition. Otherwise, he shall, by order, deny the request.

Either of the county superintendent's orders may be appealed to the board of county commissioners within thirty (30) days after the date of such order. Such appeal shall be in writing, signed by not less than three (3) resident taxpayers, and shall state sufficient facts to show the appellants' right to appeal the order. The board of county commissioners shall call a hearing of such appeal for the first regular meeting of the commission that will allow notice of the hearing to be given in accordance with the requirements for notice of school elections. After considering the material presented at the county superintendent's hearing and such other material as is presented at its hearing, the board of county commissioners shall render a decision on the creation of such new elementary district. Such decision shall be final.

When a new elementary district is created, the county superintendent shall appoint the trustees of the new district giving preference in his selections to any trustees who were

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trustees of an old district and who reside in the new district. Any trustee position vacancies that may occur in the other districts shall be filled in the manner provided for filling trustee position vacancies for such district. Any trustee appointed under the provisions of this section shall serve until a successor is elected at the next regular school election and qualified.

The order of the county superintendent or, if his order is appealed, the decision of the board of county commissioners creating a new district under this section shall be null and void and the new district shall cease to exist, if such district does not open and operate a school within eight (8) months after the date of such order or decision. If the new district does not satisfy this requirement, the territory shall be re-incorporated in the district or districts in which it was located before the creation of such new district, and the trustees shall, thereafter, be without capacity to act.

Section 178. Section 75-6519. Methods of changing high school district boundaries. The trustees of any high school district, except the trustees of a high school located in a county which has not been divided into high school districts or become a high school district by county high school unification, may request a change of the high school boundaries of their district or county as provided by this section.

Whenever the trustees of a high school district shall pass a resolution requesting the change of their district's boundary or the redivision of the county into high school districts, they shall send such resolution to the county superintendent. When the trustees request a boundary change of their district or a redivision of the county into high

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school districts, they shall describe the requested boundary change or redivision and give the reasons therefor. A requested boundary change of a district shall conform to one of the following types: (1) consolidation of high school districts shall be the merging of two (2) or more high school districts to form a single high school district;

(2) annexation shall be the attachment of all the territory of a high school district to another high school district or districts;

(3) transfer of territory shall be the detachment of territory from a high school district and the attachment of such territory to another high school district or districts; or

(4) creation of a new high school district shall be the formation of a new high school district from the territory presently incorporated in the requesting high school district.

Whenever the trustees of any high school district request a boundary change or a redivision that would create a joint high school district or, in any way, affect the boundary of an existing joint high school district, they shall send the boundary change resolution to the county superintendent of each county that would be affected by such boundary change.

Section 179. Section 75-6520. Establishment of high school districts in a county. The trustees of a high school located in a county, which has not been divided into high school districts or become a high school district by county high school unification, may request the division of the county into a high school district or districts. The request shall be sent to the county superintendent. A high school

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district or districts shall not be created in a county having a population of more than forty-five thousand (45,000), based on the United States census of 1930.

Section 180. Section 75-6521. High school boundary commission and boundary change, division or redivision hearing procedure. Each county of the state of Montana shall have a high school boundary commission consisting of the board of county commissioners and the county superintendent. Whenever a county superintendent receives a resolution from the trustees of any high school district requesting a boundary change or a request to divide or redivide the county into high school districts, he shall immediately notify the high school boundary commission. Such commission shall set a time, date, and place for a public hearing on the request. The hearing shall be set for a date within sixty (60) days after the receipt of the request and any interested person may appear and be heard on such request. The county superintendent shall send a written notice of the public hearing on a requested boundary change, division, or redivision to the trustees of each elementary and high school district of the county which has territory that would be affected by the change. The county superintendent shall also give notice of such public hearing in accordance with the requirement for school election notices prescribed by school election provisions of this title. The certificate of the county superintendent filed with the high school boundary commission reciting that such notice requirements have been satisfied shall be conclusive.

In considering a request to change high school district boundaries or to divide or redivide the county into high school districts, the high school boundary commission shall

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give primary consideration to the convenience of the high school pupils of the territory under consideration. Such commission also shall consider the grouping of elementary districts to be emcompassed by a high school district or districts, and shall group contiguous elementary districts within a high school district unless obstacles of travel such as mountains, rivers, impractical routes of travel, or distance make such grouping impractical. After the hearing, the high school boundary commission may grant or deny any request, made under the provisions of section 75-6519, for a high school district boundary change, but shall order the division of the county into high school districts whenever requested under the provisions of section 75-6520. In the latter case the commission's discretion shall extend only to the establishing of boundaries for the newly created high school district or districts.

Section 181. Section 75-6522. Approval of high school district boundary when elementary district territory divided by commission. If the order of a high school boundary commission would divide the territory of any elementary district between two (2) or more high school districts or would divide the territory of a joint elementary district which is located within the county between high school districts, the county superintendent shall, under the provisions of section 75-6406, order the trustees of such elementary district to call an election. The election shall be called and conducted in the manner prescribed in this title for school elections. An elector who may vote on the proposition shall be qualified under the provisions of section 75-6410. If the election is required because of the division of the territory of a joint

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elementary district located in the county, the electors shall be residents of such territory. If a majority of the electors voting at such election approve the division of the elementary district or the county's territory in a joint elementary district, the order of the high school boundary commission shall be approved. If a majority of the electors voting at such election do not approve such division, the high school boundary commission shall reconsider its action and shall establish different high school boundary lines, subject to the same limitations herein described.

Section 182. Section 75-6523. Counter proposed high school district boundaries by electors and election. Whenever a high school boundary commission issues an order to change high school district boundary lines, twenty per cent (20%) or more of the electors of any elementary district with territory affected by the high school boundary change who are qualified to vote under the provisions of section 75-6410 may protest the boundaries established by the order of the commission within thirty (30) days after the date of such order. Such protest shall be in the form of a petition addressed to the county superintendent and it shall provide a counter proposition to the new high school boundaries established by the order of the commission for the disposition of the territory of the elementary district for high school districting purposes. The provisions of this section shall not be used in elementary districts that have approved high school boundaries under the provisions of section 75-6522.

When the county superintendent receives a valid petition from an elementary district, he shall, within ten (10) days after the receipt of such petition, and as provided by section

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75-6423, order the trustees of such elementary district to call an election to consider the high school boundary counter proposition described in such petition. The trustees shall call and conduct the election in the manner prescribed in this title for school elections. An elector who may vote on the proposition shall be qualified to vote under the provisions of section 75-6410. If a majority of the electors voting at the election approve the counter proposition, the high school boundaries described by the counter proposition shall be approved, and the order of the high school boundary commission shall be amended to establish such high school boundaries. If a majority of the electors voting at such election disapprove the counter proposition, the order of the high school boundary commission shall be confirmed and shall be final.

Section 183. Section 75-6524. High school district abandonment. Within six (6) months after a high school district fails to operate an accredited high school within its boundaries for a period of one (1) year, the county superintendent shall order the high school district abandoned. At least twenty (20) days before issuing an abandonment order, the county superintendent shall notify the trustees of the high school district of the impending abandonment. When the order is issued, the county superintendent also shall order the attachment of the territory of each elementary district of the abandoned high school district to another high school district or districts of the county.

Section 184. Section 75-6525. Limitations for organization of joint high school district. The boundaries of any high school district which encompass a county's portion of a

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joint elementary district where an elementary school is operated may be changed to establish a joint high school district. Such high school district boundary change shall be a transfer of all the territory located in another county's portion of the same joint elementary district. No such boundary change shall be made when: (1) the territory transfer would reduce the taxable value of the taxable property of another high school district to less than seven hundred fifty thousand dollars ($750,000); or

(2) a portion of the territory to be transferred is less than three (3) miles from an operating, accredited high school located in another high school district.

Section 185. Section 75-6526. Procedure for organization of joint high school district. The high school district boundary changes permitted under section 75-6525 shall be made according to the following procedure: (1) A majority of the electors of a joint elementary district who are qualified to vote under the provisions of section 75-6410 and who reside in a county where the elementary school is not located may petition the county superintendent of their resident county to transfer the territory of the joint elementary district where they reside to establish a joint high school district. Such petition also shall state the reasons for requesting such a boundary change and the number of high school pupils residing in the territory.

(2) When the county superintendent receives a valid petition requesting the establishment of a joint high school district, he shall set a time, date, and place for a public hearing on the request which is not more than forty (40) days after the receipt of the petition. He shall give notice of

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such hearing in accordance with the election requirements for school election notices prescribed by school election provisions of this title. The county superintendent shall also notify the county superintendent of the county where the high school is located and the trustees of the high school district.

(3) The county superintendent shall hear the request to change the high school district boundaries at the place, time, and date set for the hearing, and any interested person may appear and be heard on the request. If the county superintendent deems it advisable and in the best interests of the residents of the territory to be transferred, he shall grant the petitioned request and order the change of high school boundaries to establish a joint high school district. Otherwise, he shall, by order, deny the request.

(4) If the county superintendent orders the establishment of a joint high school district, he shall immediately send the order to the county superintendent of the county where the high school is located. If the county superintendent of such county approves the order, he shall send such order to the trustees of the high school district. If the trustees approve the order, the boundary change shall become effective. Without the approval of such county superintendent and trustees, the boundary change shall fail.

(5) At any time within thirty (30) days after the date of the county superintendent's order to grant or deny the request to establish a joint high school district, an appeal may be made to the board of county commissioners of the county in which the petition originated. The board of county commissioners shall conduct a hearing for the appeal, and their

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decision shall be final, subject to the approvals required by subsection (4).

Section 186. Section 75-6527. High school district consolidation by board of county commissioners. The board of county commissioners of any county shall have the authority to consolidate any two or more high school districts of the county whenever it appears to them that it would be for the best interest of the pupils and other residents of the districts and the county. The board of county commissioners shall have complete responsibility and authority to determine all questions involved in effecting the consolidation of the high school districts, except that before it shall become effective any such boundary change shall be approved by the superintendent of public instruction.

Section 187. Section 75-6528. High school district boundary approval by superintendent of public instruction. Whenever a high school boundary commission orders changes in high school district boundaries or a division or redivision of the county under the provisions of this title, its order shall not be final until it has been approved by the superintendent of public instruction. The superintendent of public instruction shall not approve any high school boundary commission order that: (1) is dated less than one (1) year since the last high school boundary commission order was approved for such county;

(2) has not been confirmed by the high school boundary commission of each county affected by the boundary change when it involves a joint high school district; or

(3) does not provide for the high school district boundaries approved by the electors of an elementary district under

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the provisions of sections 75-6522 or 75-6523.

Section 188. Section 75-6529. Bonded indebtedness against original territory except when assumed by election. Whenever district boundaries are changed in any manner prescribed in this title, the existing bonded indebtedness against any district or territory affected by a change of boundaries shall remain the indebtedness of the original territory against which such bonds were issued and shall be paid by levies on the original territory; except when elementary districts are consolidated with the mutual assumption of bonded indebtedness or when an elementary district is annexed with a joint assumption of the annexing district's bonded indebtedness with the annexing district. Any monies to the credit of the debt service fund of a district when its boundaries are changed shall be used to pay the existing bond principal and interest of the original territory issuing such bonds as it becomes due or for bond redemption under the bonding provisions of this title.

Section 189. Section 75-6530. Property tax valuation after district boundary change. The property tax valuation used under the provisions of section 75-6717 for the purposes of fixing the tax levies, except the debt service fund tax levy, for a district that has had a boundary change at any time before the second Monday in August shall include the property tax valuation of any territory added to the district by such boundary change, or exclude the property tax valuation of any territory detached from the district by such boundary change.

Section 190. Section 75-6531. Trustees of district affected by boundary change. The trustees of any district to

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which the territory of another district is attached as a result of annexation, abandonment, joint district dissolution, territory transfer, or any other method of changing district boundaries except by the consolidation of elementary districts or by the creation of a new elementary district shall continue to be the trustees of such district with the same powers, duties, and responsibilities and subject to the same limitations provided by law, as if there had been no boundary change. In the case of elementary district consolidation or the creation of a new elementary district, the appointed trustees of the resulting elementary district shall assume their trustee positions under the authority of section 75-6506 or section 75-6517, whichever is applicable.

Section 191. Section 75-6532. Cash disposition when district ceases to exist. Whenever a district shall cease to exist in any manner prescribed in this title except when districts are consolidated, the cash on hand to the credit of the funds of the district and the debts of such district shall be allocated in the following manner: (1) Any cash to the credit of the district shall be used to pay any debts of the district, including bonded indebtedness, except that any cash available in the debt service fund shall be used first to pay bond interest and all outstanding bonds.

(2) If any cash remains to the credit of the district after paying its debts, the cash shall be transferred by the county treasurer to the credit of the district or districts assuming its territory.

When the territory is assumed by more than one district, the remaining cash shall be prorated between the districts on the basis of the number of census children residing within

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the territory assumed by each district as determined by the county superintendent.

(3) If any debts, other than bonded indebtedness remain as an obligation of the district after the cash has been utilized under the provisions of subsection (1) above, the debts shall be assigned in the same manner prescribed for the transfer of cash under subsection (2) above.

Section 192. Section 75-6533. Cash disposition when districts consolidated. Whenever two (2) or more districts are consolidated without the mutual assumption of bonded indebtedness, all cash and debts, other than cash credited to the debt service fund and debts for bonded indebtedness, shall be credited or debited to the same types of funds of the consolidated district as the funds from which they were transferred by the county treasurer. In addition when two (2) or more elementary districts are consolidated with the mutual assumption of bonded indebtedness, the cash credited to the debt service fund and the bonded indebtedness also shall be transferred to a similar fund of the consolidated district.

Section 193. Section 75-6534. Cash disposition when new elementary district created. Whenever a new district is created, under the provisions of section 75-6518, the end-of-the-year cash balance in each fund of each district having territory that has been placed in the new district, except the debt service fund, shall be apportioned by the county superintendent on the basis of the proportion that the number of school census children residing in the new district is of the total number of school census children residing in the old district before the creation of the new district. After the new district has operated a school for one (1) month, the

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county superintendent shall order the county treasurer to transfer the cash to which the new district is entitled to the credit of the fund of the new district which corresponds with the fund from which it was transferred. The new district shall not assume any debts of the old district other than existing bonded indebtedness which remains an obligation against the taxable property of the territory included in the new district.

Section 194. Section 75-6535. No cash disposition when territory transfer. Whenever only a portion of the territory of one district is transferred to another district, all cash and debts, other than bonded indebtedness, shall be retained by the district originally realizing the cash or debt.

Section 195. Section 75-6536. Property disposition when district boundaries changed. Whenever district boundaries are changed, title to the real and personal property of the districts involved in such boundary change shall vest in the district which encompasses the territory where such real or personal property was located at the time the legal procedure to authorize the boundary change was introduced. The disposition or utilization of such property will be in the discretion of the trustees of the district encompassing the territory of its location, as provided by law.

Section 196. Section 75-6537. Surrender of records when district ceases to exist. Within ten (10) days after any district ceases to exist, the trustees shall surrender all minutes, documents, and other records of the district to the trustees of the district assuming its territory or, if more than one (1) district assumes its territory, to the county superintendent.

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Section 197. Section 75-6538. County high school unification. Any county high school may be unified with the elementary district where the county high school building is located to establish a unified school system under a unified board of trustees. If the county has not been divided into high school districts, a high school district with boundaries coterminous with the county boundaries shall be created, except that such high school district shall not include the territory of any existing joint high school district located in the county. The territory of an existing joint high school district shall remain a part of such joint high school district. The creation of high school districts under this provision shall be in lieu of the high school district division provisions of section 75-6520.

A proposition to unify a county high school with the elementary district where the county high school building is located shall be introduced whenever: (1) the trustees of the county high school and the trustees of the elementary district individually pass resolutions requesting the county superintendent to order an election to consider a unification proposition; or

(2) not less than twenty per cent (20%) of the electors of the county or, if the county has been divided into high school districts, the electors of the high school district where the county high school is located, and who are qualified to vote under the provisions of section 75-6410, petition the county superintendent to order an election to consider a unification proposition.

When the county superintendent has received the trustees' resolutions or a valid petition, he shall, within ten (10)

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days after the receipt of the last resolution or petition and under the provisions of section 75-6406, order the county high school to call an election to consider a unification proposition. The trustees of the county high school shall call and conduct an election in the manner prescribed in this title for school elections. An elector who may vote on the unification proposition shall be qualified to vote under the provisions of section 75-6410. The ballot for a county high school unification proposition shall be substantially in the following form:

OFFICIAL BALLOT
COUNTY HIGH SCHOOL UNIFICATION
ELECTION

Shall _____ County High School be unified with District No. _____, _____ County to establish a unified school system under a unified board of trustees?

☐ FOR the unification of the county high school.

☐ AGAINST the unification of the county high school.

When the county superintendent receives the election certificate from the trustees of the county high school, he shall issue an order declaring the unification of the county high school with the elementary district identified on the ballot as of the next succeeding July 1, if a majority of those electors voting at such election have voted for the unification proposition.

If a majority of those electors voting at the election have voted against the unification proposition, he shall order the disapproval of the unification proposition.

Section 198. Section 75-6539. Transactions after approved county high school unification. Whenever a county high school is unified with the elementary district where the

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county high school building is located, the following transactions shall be completed on or before the first of July when the unification becomes effective: (1) The high school boundary commission, without the approval of the superintendent of public instruction, shall order the creation of a high school district if the county has not already been divided into high school districts.

(2) The county high school trustees, who shall not have the capacity to govern the high school district upon unification, shall surrender all minutes, documents and other records of the county high school to the trustees of the high school district.

(3) The county superintendent shall order the establishment of additional high school trustee nominating areas in the manner prescribed in sections 75-5903 and 75-5904, if requested to do so by a majority of the outlying elementary districts located in the high school district. When the county superintendent establishes such areas, he shall appoint additional high school district trustees from each area who shall hold office until a successor is elected at the next regular school election and qualified.

(4) The county treasurer, after allowing for any outstanding or registered warrants, shall transfer all end-of-the-year fund cash balances of the county high school to similar funds established for the high school district. All previous years' taxes levied and collected for the county high school shall be credited to the appropriate fund of the high school district.

(5) The board of county commissioners shall execute, in the name of the county, all necessary and appropriate deeds,

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bills of sale and other instruments for the conveyance of title to all real and personal property of the county high school, including all appurtenances and hereditaments, to the high school district.

All county high school bonds outstanding at the time of unification shall remain the obligation of the county or that portion of the county against which the bonds were originally issued. The high school district shall be responsible for the maintenance of the debt service fund for such bonds. It shall be the duty of the board of county commissioners and the trustees of the high school district to perform the duties prescribed in the school budgeting and bond redemption provisions of this title for the redemption and interest payments of the county high school bonds in the same manner and by the same means as though the county high school had not been unified.

Section 199. Section 75-6601. Definition of various schools. As used in this title, unless the context clearly indicates otherwise, the term "school" means an institution for the teaching of children that is established and maintained under the laws of the state of Montana at public expense.

The trustees of any district shall designate the grade assignments for the schools of the district but for the purposes of this title each school shall be known as: (1) an elementary school when it comprises the work of any combination of kindergarten, other preschool programs or the first eight (8) grades, or their equivalents, except when an accredited junior high school or an accredited six-year high school is operated by the district, grades seven (7) and eight (8),

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or their equivalents, shall not be considered as elementary grades; or

(2) a high school when it comprises the work of one (1) or more grades of school work, or their equivalents, intermediate between the elementary schools and the institutions of higher education of the state of Montana. Types of high schools shall be designated as follows:

(a) a junior high school is a school comprising the work of grades seven (7) through nine (9), or their equivalents, that has been accredited as a junior high school under the provisions of section 75-7502;

(b) a senior high school is a school which comprises the work of grades ten (10) through twelve (12), or their equivalents, and which is operated in conjunction with a junior high school;

(c) a six-year high school is a school comprising the work of grades seven (7) through twelve (12), or their equivalents, that has been accredited as a six-year high school under the provisions of section 75-7502;

(d) a four-year high school is a school comprising the work of grades nine (9) through twelve (12), or their equivalents;

(e) a county high school is a four-year high school operated as an agency of county government and established under the provisions of the acts of March 3, 1899, March 14, 1901 and any subsequent amendments thereto; or

(f) a post-secondary vocational-technical center established under the provisions of section 75-7707.

Unless otherwise required by law, the trustees of an elementary district in which a high school is located and the

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trustees of the high school district operating such high school may organize the schools of their districts to form a kindergarten through grade twelve (12) school system, provided that the high school and elementary trustees shall not assume responsibility for the administration of grades which are not properly within their jurisdiction.

Section 200. Section 75-6602. Opening or reopening of elementary school. The trustees of any elementary district may open or reopen an elementary school of the district when such opening or reopening has been approved in accordance with the following procedure: (1) The parents of at least three (3) pupils who would attend the opened or reopened school petition the trustees of the district to open or reopen a school during the ensuing school fiscal year. Such petition shall identify the school, state the reasons for requesting the opening or reopening, and give the names of the children who would attend such school.

(2) If the trustees approve the opening or reopening of a school, they shall send the petition with a copy of their approval resolution to the county superintendent. The county superintendent shall review the petition to determine if the average number belonging (ANB) of such school would be five (5) or more.

(3) The county superintendent shall present the petition, trustees' approval, and his findings on the probable ANB to the board of county commissioners (budget board) for their consideration. The budget board shall deny the opening or reopening of any school if the county superintendent's enrollment estimate for such school is less than five (5) ANB. In all other cases, the budget board may approve or disapprove

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the requested opening or reopening of the elementary school.

(4) If the budget board approves a school opening or reopening, the county superintendent shall send a copy of such approval, along with the petition, trustees' approval, and his estimate of the probable ANB to the superintendent of public instruction. The superintendent of public instruction shall approve or disapprove the requested opening or reopening of the elementary school. If the opening or reopening is approved, the superintendent of public instruction shall approve or adjust the ANB estimate of the county superintendent for such school and such ANB amount shall be used for budgeting and foundation program purposes during the ensuing school fiscal year. No ANB amount shall be approved for the ensuing school fiscal year for an opening or reopening school when the request for such school has not been received by the superintendent of public instruction before the fourth Monday of June.

Section 201. Section 75-6603. Opening or reopening of a high school. The trustees of any high school district may open or reopen a high school of the district or a branch of a high school of the district when such opening or reopening has been approved by the superintendent of public instruction; except when a county high school is discontinued by a unification action, the trustees may establish, by resolution, a high school to be operated by the high school district without further action or approval. When the trustees of a high school district resolve to open or reopen a high school, they shall apply to the superintendent of public instruction for approval to open or reopen such school by the first day of June before the school fiscal year in which they intend to open or reopen

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the high school. Such application shall: (1) state their reasons why the high school should be opened or reopened;

(2) the probable enrollment of such high school:

(3) the distance and road conditions of the route to neighboring high schools:

(4) the taxable value of the district;

(5) the building and equipment facilities available for such high school;

(6) the planned course of instruction for such high school;

(7) the planned methods of complying with high school standards of accreditation; and

(8) any other information that may be required by the superintendent of public instruction.

The superintendent of public instruction shall investigate the application for the opening or reopening of a high school and shall approve or disapprove the opening of the high school before the fourth Monday of June preceeding the first year of intended operation. If the opening is approved, the high school district trustees may open such high school.

Whenever the opening or reopening of a high school is approved for the ensuing school fiscal year, the county superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment for the high school. The ANB determined by the county superintendent shall be used for budgeting and foundation program purposes.

Nothing herein contained shall be construed so as to preclude the trustees of a high school district from establishing more than one (1) high school in the district.

Section 202. Section 75-6604. Opening of a junior high

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school. The trustees of any elementary district and the trustees of the high school district in which such elementary district is located may open a junior high school when such opening has been approved by the superintendent of public instruction; except that when the high school district operates a county high school, the opening of a junior high school shall be approved under the provisions of section 75-6605.

When the trustees of such districts resolve to open a junior high school, they shall jointly apply to the superintendent of public instruction for approval to open such school by the first day of June before the school fiscal year in which they intend to open the junior high school. The application shall contain such information as is required under section 75-6603 for an application to open a high school.

The superintendent of public instruction shall investigate the application for the opening of a junior high school and shall approve or disapprove the opening of the junior high school before the fourth Monday of June preceeding the first year of intended operation. If the opening is approved, the trustees of the elementary district and the high school district may jointly open such school.

Whenever the opening of a junior high school is approved for the ensuing school fiscal year, the county superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment for the junior high school. The ANB determined by the county superintendent shall be used for budgeting and foundation program purposes during the ensuing school fiscal year.

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Section 203. Section 75-6605. Opening a junior high school when high school district operates a county high school. Whenever the trustees of an elementary district and a high school district operating a county high school have formed a joint board of trustees under the provisions of section 75-5928, such joint board of trustees may open a junior high school under the provisions of this section.

When the joint board of trustees resolve to open a junior high school, they shall order an election under the provisions of section 75-6406 to submit a proposition to the electors of the district to approve or disapprove the trustees resolution to open a junior high school. The joint board of trustees shall call and conduct the election in the manner prescribed in this title for school elections and equally share the cost of the election. Any elector qualified to vote under the provisions of section 75-6410 may vote on the proposition. If a majority of the electors voting at the election approve the proposition, the trustees shall apply to the superintendent of public instruction for approval to open a junior high school. If a majority of the electors voting at the election disapprove the proposition, a junior high school shall not be opened by the joint board of trustees.

The application to the superintendent of public instruction for the approval to open a junior high school shall be submitted by the first day of June following the election approving the opening of the junior high school. The application shall contain such information as is required under section 75-6603 for an application to open a high school.

The superintendent of public instruction shall investigate the application for the opening of a junior high school

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and shall approve or disapprove the opening of the junior high school before the fourth Monday of June preceeding the first year of intended operation. If the opening is approved, the joint board of trustees may open the junior high school.

At any time the trustees of the elementary district and the trustees of the high school district shall cease to form a joint board of trustees under the provisions of section 75-5928, the junior high school shall be closed and the districts shall assume the provision of an educational program for the junior high school pupils of their respective districts.

Section 204. Section 75-6606. Budgeting and cost sharing when junior high school operated by elementary district and high school district operating a county high school. Whenever the opening of a junior high school is approved for the ensuing school fiscal year under the provisions of section 75-6605, the county superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment for the junior high school. The ANB determined by the county superintendent and the ANB actually realized in subsequent school fiscal years shall be applied under the provisions of subsection (10) of section 75-6905 to prorate the maximum-general-fund-budget-without-a-voted-levy between the elementary and high school districts. Each district shall adopt its general fund budget on the basis of such prorated amount and shall finance its proportionate share of the cost of operating the junior high school.

The cost of operating the junior high school shall be prorated between the elementary district and the high school district on the basis of the ratio that the number of pupils

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of their district is to the total enrollment of the junior high school.

Section 205. Section 75-6607. School closure. When it is in the best interest of the pupils affected, the trustees of any district shall have the power and authority to close any school of the district, except that the closure of a junior high school shall be closed jointly by the trustees of the elementary district and the high school district in which the school is located. Whenever the trustees of a district close a school of the district, they shall provide the pupils of the closed school with transportation and tuition, if required, to other schools in accordance with the provisions of this title.

Section 206. Section 75-6608. School isolation. The trustees of any district operating an elementary school of less than ten (10) ANB or a high school of less than twenty-five (25) ANB shall apply to have the school classified as an isolated school. The application shall be submitted by the trustees to the county superintendent by the first day of May each year. Such application shall include: (1) the name of each pupil who will attend the school during the ensuing school fiscal year with the distance the pupil resides from the nearest county road or highway; and

(2) a description of conditions affecting transportation such as poor roads, mountains, rivers, or other obstacles to travel, the distance the school is from the nearest open school having room and facilities for the pupils of such school, or any other condition that would result in an unusual hardship to the pupils of the school if they were transported to another school; and

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(3) any other information prescribed by the superintendent of public instruction.

The county superintendent shall submit the applications to the board of county commissioners (budget board) for their consideration on or before the fifteenth (15th) day of June. The budget board shall approve or disapprove the application on the basis of the existence of unusual obstacles to travel or the unusual distance to the nearest open school having room and facilities for the pupils of such school. The budget board also may approve an application because of the existence of other conditions which would result in an unusual hardship to the pupils of such school if they were transported to another school.

When an application is approved because of conditions other than obstacles to travel or the unusual distance to the nearest open school having available room, the county superintendent shall review such application and approve or disapprove it. If the county superintendent approves the isolated classification, he shall send the application indicating his approval and the budget board's approval to the superintendent of public instruction before the fourth Monday of June. The superintendent of public instruction shall approve or disapprove such application for isolated classification.

Section 207. Section 75-6701. Application of budget system for districts. The school budgeting procedure and provisions of this title shall apply to elementary, high school and community college districts, and to all funds requiring the adoption of a budget. Each district shall separately propose and adopt a budget in accordance with the

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requirements of this title.

Section 208. Section 75-6702. General supervision of school budgeting system. The superintendent of public instruction shall have general supervision over the school budgeting procedure and provisions prescribed by law and shall have the duty to establish such regulations as are necessary to secure compliance with the school budgeting laws.

Section 209. Section 75-6703. Board of school budget supervisors. There shall be a board of school budget supervisors in each county of the state. The board of county commissioners shall constitute such board and in that capacity shall exercise the powers and duties prescribed by law. The clerk of the board of school budget supervisors shall be the county superintendent whose office shall be the office of such board.

As used in this title, unless the context clearly indicates otherwise, the term "budget board" means the board of school budget supervisors of a county.

Section 210. Section 75-6704. School budget form. The format of the school budget form shall be prescribed by the superintendent of public instruction and shall provide for proper school budgeting procedures in accordance with the budgeting requirements of this title and generally accepted accounting principles. The superintendent of public instruction shall cause a sufficient number of the budget forms to be printed for use by all districts for each school fiscal year.

Each district shall use the budget forms prescribed by the superintendent of public instruction except that a dis-

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trict may, with the approval of the superintendent of public instruction, use a more detailed form.

Section 211. Section 75-6705. Initial budget items for completion and estimated budgeting authority. During the month of March, the county superintendent shall complete the portions of the budget form providing information about the last completed school year and, separate from the budget form, estimate the maximum amount to be available for the general fund budget in the ensuing year without an additional levy. By the tenth day of April, the county superintendent shall send to each district two (2) copies of the budget form, the general fund estimate, and any other information or data as may be required by the superintendent of public instruction or that the county superintendent may deem necessary.

Upon receipt of the budget forms, the district shall complete those portions of them which require information about the then-current school year.

Section 212. Section 75-6706. Notice of preliminary budget meeting. During the month of May, the county superintendent shall publish a notice at least one (1) time in the official newspaper of the county stating that the trustees of each district in the county will meet in regular session on the fourth Monday in June to prepare and adopt a preliminary budget for the next ensuing school fiscal year and that any taxpayer in the district may attend such meeting and be heard on such preliminary budget.

Section 213. Section 75-6707. Preparation and adoption of preliminary budget by trustees. The trustees of each district shall meet at their regular place of meeting on the fourth Monday in June to adopt a preliminary budget for the

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next ensuing school fiscal year. This budget meeting may be continued from day to day but shall not exceed five (5) days in total. Any taxpayer in the district may attend such meeting and be heard in regard to the preliminary budget or any item or amount proposed to be included in such budget. The preliminary budget shall include all funds which require the adoption of a budget and which the trustees wish to utilize during the ensuing year.

The proposed expenditures adopted as the preliminary budget shall be entered on the appropriate portion of the budget form. The amount of the preliminary general fund budget for a district shall not exceed the foundation program of such district except in the manner permitted by the laws of Montana. If any appropriation item of the preliminary budget provides for the payment of wages or salaries to more than one (1) person, the district shall attach to the preliminary budget a separate listing of each position of employment with the budgeted amount of compensation for each position.

After the adoption of the preliminary budget by the trustees, the chairman of the trustees and the clerk of the district shall sign the budget form and it shall constitute the preliminary budget for the district. The trustees shall send both copies of the adopted preliminary budget with all appendages and any other information required by law to the county superintendent on or before the fifth day after the fourth Monday of June.

Section 214. Section 75-6708. Preparation of preliminary budget by county superintendent if no budget submitted. If for any reason the trustees of any district fail to prepare and submit a preliminary budget to the county su-

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perintendent before the tenth day of July, the county superintendent shall prepare a preliminary budget for the district in the manner provided by law and shall note on the budget form the specific reasons why he has prepared it. For all purposes thereafter such preliminary budget shall be considered to have been adopted by the trustees of the district in the regular manner.

Section 215. Section 75-6709. Notice of preliminary budget filing and final budget meeting. Between the tenth and twentieth days of July of each year the county superintendent shall publish notice one (1) time in the official newspaper of the county stating that the preliminary budgets for all districts in the county for the school fiscal year just beginning, as prepared and adopted by the respective trustees, are on file in his office and that such budgets are open to inspection of all taxpayers. The notice shall also state that the board of school budget supervisors of the county will meet at 10 a.m. on the fourth Monday in July for the purpose of considering and adopting the final budget of each district, that the meeting of such budget board may be continued from day to day until the final adoption of all the districts' budgets, and that any taxpayer in a district may appear at such budget board meeting and be heard for or against any part of the budget of his district.

Section 216. Section 75-6710. County treasurer's statement of cash balances and bond information. By the tenth day of July, the county treasurer shall prepare a statement for each district showing the amount of cash on hand for each fund maintained by the district and the amount of the outstanding obligations against each fund at the close of the last com-

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pleted school fiscal year. The county treasurer shall also include on each district's statement the details on the obligation for bond retirement and interest for the school fiscal year just beginning. The format of the statement on fund cash balances and bond information shall be prescribed by the superintendent of public instruction.

By the tenth day of July, the county treasurer shall prepare a statement for each county school fund supported by county-wide levies, showing the amount of cash on hand at the beginning of the school fiscal year, the receipts and apportionments, and the amount of cash on hand at the end of the school fiscal year, for each county school fund maintained during the immediately preceding school fiscal year. The format of this statement shall be prescribed by the superintendent of public instruction.

On or before the tenth day of July, the county treasurer shall deliver the statements of district and county fund cash balances and the bond information for each district to the county superintendent who shall attach such district statements to the applicable district's preliminary budget.

Section 217. Section 75-6711. County assessor's of district, cities and towns valuations. By the second Monday of July, the county assessor of each county shall, at the time of delivering the completed assessment book to the county clerk under the provisions of section 84-505, R.C.M., 1947, also deliver to the county superintendent and to each city or town clerk a statement showing separately for each district and each city or town in his county, the total assessed value and the total taxable value of all property in such districts, cities or towns, as these valuations appear in such

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completed assessment book.

The county clerk shall, after the second Monday in August and before or at the time of delivering the assessment book to the county assessor under the provisions of section 84-4006, R.C.M., 1947, prepare a statement showing separately for each district and each city or town in his county, the total assessed value and the total taxable value of all property in such districts, cities, or towns, as these valuations appear in the assessment book after amendments, corrections, and additions made by the state and county boards of equalization and entered on the assessment book. The county clerk shall immediately deliver a copy of his statement of assessed and taxable values for districts to the county superintendent and a copy of those portions of such statement for each city and town to the appropriate city or town clerk.

In the case of a joint school district, the county assessor and the county clerk shall, at the time of delivering their respective statements to the county superintendent, send a statement of the assessed value and taxable value of the portion of the joint school district situated in their county to the county superintendents and to the county commissioners of each county in which a part of the joint school district is situated.

Section 218. Section 75-6712. County superintendent estimates of revenue and supply of other financial and statistical information. Before the fourth Monday of July, the county superintendent shall prepare estimates of the revenue available to finance each fund included on each district's preliminary budget. The preliminary budget revenue estimates shall be entered by the county superintendent in

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the appropriate portion of the form. The county superintendent shall also enter any other financial and statistical information which is necessary for the completion of the budget form and which is available prior to the fourth Monday of July.

Section 219. Section 75-6713. Final budget meeting. On the fourth Monday in July, at the hour of 10 a.m., the budget board of each county shall meet in the office of the county superintendent. The county superintendent, as clerk of the budget board, shall place before the budget board all of the district preliminary budgets submitted to or prepared by the county superintendent, including all information and any attachments required by law. The budget board shall examine and consider the budgets.

The budget board may continue its meeting from day to day but shall adopt the final budget for each district and determine the amounts to be raised by tax levies for each district not later than the second Monday in August and before the fixing of the tax levies for each district. Any taxpayer in any district may attend any portion of the budget board's meeting and be heard on the budget of such district or on any item or amount contained in such budget.

Section 220. Section 75-6714. Final budget adjustment procedures. At the meeting of the budget board, the budget board shall have the power to make any changes or corrections it may deem necessary or proper in any item or amount of the preliminary budget either by eliminating the item or amount, or by increasing or reducing the amount of any item. When it appears to the budget board that the amount proposed to be expended for any item of the preliminary budget is in excess

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of the amount actually required to be expended for such item, the budget board shall reduce such amount to the amount actually required to be expended and shall enter in its minutes the reasons for such reduction and shall immediately send a copy of such entry in the minutes to the chairman of the trustees of the applicable district.

Whenever the budget board adjusts a district's budget by any amount or eliminates any item, the budget board shall not take final action on such budget and shall afford the trustees of such district an opportunity to be heard on the budget by calling a hearing to be held on the first Monday in August. At such hearing, the budget board shall invoke the applicable school budget adjustment procedure to determine the amount adopted in the final budget. The school budget adjustment procedure shall be: (1) ELEMENTARY

If, at such hearing, the trustees and the budget board are unable to agree on the amount or need for any item of an elementary district budget, the majority vote of all members of the elementary district board of trustees shall finally fix and determine such amount or item and this amount or item shall not be changed by the budget board.

(2) HIGH SCHOOL

At the hearing on the high school district budget, the chairman of the budget board or a member of that board appointed by him, the chairman of the board of trustees of the high school district or a member of that board appointed by him, and the county superintendent shall constitute a board of review. This board of review shall have the power and it shall be its duty to consider each amount or item adjusted by the budget board and to fix and determine such amount or item

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for the final budget. Such amount or item shall not be subject to further review.

Section 221. Section 75-6715. General fund budget adjustment when budget exceeds maximum limitation. If it shall appear to the budget board that a district's preliminary general fund budget exceeds the maximum general fund budget allowed by law, including any additional levy, the budget board shall reduce item amounts of such budget to such an extent that the authorized maximum general fund budget, including any additional levy, shall not be exceeded. In adjusting any item of the preliminary general fund budget, the budget board shall be guided as far as possible by the wishes of the board of trustees. When the district is obligated by contract or the teacher tenure law to employ or retain any person at a specified salary or wage, the budget board shall not reduce any item of the general fund budget for salaries and wages which would reduce such item to less than that required to meet the district's obligations.

Section 222. Section 75-6716. Adoption and expenditure limitations of final budget. When the budget board has caused the amount of an item of the budget for a district to be determined and set, it shall enter the amount in the portion of the budget form provided for the reporting of the final budget and upon completion of all the items, the chairman and clerk of the budget board shall sign the budget form. The resulting budget shall constitute the final budget and the appropriations for the district for the current school fiscal year. The board of trustees and all officers and employees of the district shall be limited in making expenditures or incurring liabilities to the amount of such appro-

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priations except that transfers from any appropriation item to another appropriation item within a fund's budget may be made as provided by law. Expenditures made, liabilities incurred, or warrants issued in excess of any of the final budget appropriations for any item, as originally determined or as revised by transfer, shall not be a liability of the district and no money of the district shall ever be used to pay the same.

Section 223. Section 75-6717. Fixing and levying tax levies by board of county commissioners. On the second Monday in August when the members of the budget board meet as the board of county commissioners for the purpose of fixing tax levies, the county superintendent, as clerk of the budget board, shall place before the board of county commissioners the final adopted budgets of all districts of the county and any emergency budget adopted by a district during the previous school fiscal year. It shall be the duty of the board of county commissioners of each county to fix and levy on all the taxable value of all the real and personal property within a district or the county, whichever is applicable, all district and county taxation required to finance, within the limitations provided by law, the final budgets and any emergency budgets of all districts of the county.

Section 224. Section 75-6718. Allocation of federal funds in lieu of property taxation. Federal funds received by a district under the provisions of Title I of Public Law 81-874, or funds designated in lieu of such federal act by the congress of the United States, may be allocated to the various operating budgets of the district by the trustees.

Section 225. Section 75-6719. Completion, filing and

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delivery of final budgets. After the final budget of each district has been adopted by the budget board, and the county commissioners have levied the taxes to support such budgets, the county superintendent, as clerk of the budget board, shall complete all the remaining portions of the budget forms and shall file a copy of the final budgets in the office of the budget board. The county superintendent shall also: (1) send the final budget information to the superintendent of public instruction on the forms provided by the superintendent, on or before the first day of September;

(2) deliver a copy of the final budget for each district to the county treasurer on or before the first day of September; and

(3) send a copy of each district's final budget to the applicable school district on or before the first day of September.

Section 226. Section 75-6720. Designation of county officials for joint district budgeting. When all of the schools of the joint district are located in one (1) county, the county superintendent, the budget board, and the county treasurer of the county where the schools of the district are located shall perform the school budgeting duties for such joint district. When the schools of a joint district are located in more than one (1) county, the superintendent of public instruction shall designate the county officials of one county to perform the school budgeting duties for such joint district.

The final budgets of joint districts shall be filed in the office of the county superintendent of each county in which a part of a joint district is located.

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Section 227. Section 75-6721. Budgeting procedure for joint districts and establishment of communication procedure. The trustees of a joint district shall adopt a preliminary budget according to the school budgeting laws and send a copy of such budget to the county superintendent of each county in which a part of the joint district is located; provided that two copies of the budget shall be sent to the county superintendent who is responsible for the performance of the budget duties. The county superintendents receiving the budget of a joint district shall jointly compute the estimated budget revenues and determine the number of mills which need be levied in the joint district for each fund for which a levy is to be made. The superintendent of public instruction shall establish a communication procedure to facilitate the joint estimation of revenues and determination of the tax levies.

After determining, in accordance with law, the number of mills which need be levied for each fund included on the final budget of the joint district, a joint statement of the required mill levies shall be prepared and signed by the county superintendents involved in the computation. A copy of the statement shall be delivered to the board of county commissioners of each county in which a part of the joint district is located not later than the Friday immediately preceding the second Monday in August.

Section 228. Section 75-6722. Fixing and levying tax levies for joint districts. At the time of fixing levies for county and school purposes on the second Monday in August, the board of county commissioners of each county in which a part of a joint district is located shall fix and levy taxes

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on that portion of the joint district located in such board's county, at the number of mills for each such levy recommended by the joint statement of the county superintendents.

The board of county commissioners shall include in the amounts to be raised by the county levies for schools, all the amounts required for the final budget of each part of a joint district located in the county, in accordance with the recommendations of the county superintendent.

Section 229. Section 75-6723. Definition of emergency for budgeting purposes. As used in this title, unless the context clearly indicates otherwise, the term "emergency" for the purpose of school budgeting shall be: (1) an increase in the enrollment of a district over the immediately preceding school fiscal year which is beyond what could reasonably have been anticipated at the time of the adoption of the budget for the then-current school fiscal year, and that because of such enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

(2) the destruction or impairment of any school property necessary to the maintenance of the school by fire, flood, storm, riot, insurrection or any act of God to such an extent as to render such school property unfit for its present school use;

(3) a judgment for damages against the district rendered by a court after the adoption of the budget for the current year;

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional

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financial obligation on the district; or

(5) any other reason of similar consequences that has been approved by the superintendent of public instruction upon petition by the trustees of the district.

Section 230. Section 75-6724. Authorization for emergency budget adoption. Emergency budgets may be adopted at any time of the school fiscal year except that emergency budgets required by an enrollment increase that could not have been anticipated at the time of the adoption of the regular budget as provided in subsection (1) of section 75-6723 may not be adopted until after the last day of December.

Section 231. Section 75-6725. Resolution for emergency budget and, under certain circumstances, petition of superintendent of public instruction. Whenever the trustees of any district shall deem that an emergency exists, they may adopt a resolution proclaiming such emergency by a unanimous vote of all members present at any meeting for which each trustee has been given reasonable notice of the time and place of holding such meeting. The emergency resolution shall also state the facts constituting the emergency, the estimated amount of money required to meet the emergency, the funds affected by the emergency, and the time and place when the board will meet for the purpose of considering and adopting an emergency budget for such funds for the current school fiscal year.

If the trustees shall deem that an emergency exists for any reason other than the conditions specified in subsections (1), (2), (3), or (4) of section 75-6723, they shall petition the superintendent of public instruction for permission to adopt a resolution of emergency. Such petition

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shall set forth in writing the reasons for the request, the district funds affected by the emergency, the estimated amount of money required to meet such emergency for each affected fund, the anticipated sources of financing for the emergency expenditures, and such other information as may be required by the superintendent of public instruction. The petition shall be signed by each trustee.

The superintendent of public instruction shall promptly approve or disapprove the petition requesting approval to adopt a resolution of emergency. If the petition is approved, the trustees may then adopt a resolution of emergency, and may subsequently take all other steps required for the adoption of an emergency budget. Approval of the petition by the superintendent of public instruction shall merely authorize the board of trustees to initiate emergency budget proceedings by resolution and shall not relieve the trustees of the necessity of complying with the requirements of the school emergency budgeting laws. Approval of the petition shall not be construed as approval of any subsequent application for increased state aid on account of such emergency.

Section 232. Section 75-6726. Notice of emergency budget resolution. A copy of the emergency resolution shall be published one (1) time in a newspaper that will give notice to the largest number of people of the district as determined by the trustees and a copy of the resolution shall be posted at each schoolhouse of the district. A copy of the emergency resolution shall also be delivered to the county superintendent and to the county clerk, as the clerk of the board of county commissioners of the county. The publication, posting, and delivery of the resolution shall be done not less than

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one (1) week before the day specified in the resolution for the consideration and adoption of an emergency budget.

Section 233. Section 75-6727. Emergency budget limitation, preparation and adoption procedures. The meeting of the trustees to consider and adopt an emergency budget shall be open to the public and any taxpayer in the district shall have the right to appear and be heard. If at such a meeting a majority of the trustees present shall find that an emergency exists, the trustees may make and adopt a preliminary emergency budget on the regular budget form setting forth fully the facts constituting the emergency. In adopting the preliminary emergency budget, the trustees may budget for any fund which was included on the final budget of the district for the current school fiscal year. The budget shall be itemized to show the amount appropriated for each item as required on the budget form.

When the emergency is due to any increase of enrollment, the maximum amount of the emergency budget for all funds shall be determined in the following manner: (1) Determine the total amount in the final budget for the current school fiscal year of all funds affected by the emergency, less any amounts appropriated as capital outlay and any amount appropriated for addition to the cash reserve.

(2) Divide the amount determined in subsection (1) by the number of pupils originally enrolled in such district during the immediately preceding school fiscal year. The resulting cost per pupil shall constitute the maximum permissible per-pupil expenditure in the emergency budget.

(3) Determine the enrollment increase of the current school fiscal year by subtracting the number of pupils ori-

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ginally enrolled during the immediately preceding school fiscal year from the number of pupils enrolled for the current school fiscal year. The result shall be the enrollment increase for the current school fiscal year.

(4) Multiply the cost per pupil determined in subsection (2) by the enrollment increase determined in subsection (3). The result shall be the maximum limitation on an emergency budget for emergencies due to an increase of enrollment.

In the event of any other type of emergency, the budget shall be limited by those expenditures deemed by the trustees to be reasonable and necessary to finance the stated conditions of the emergency, and the preliminary emergency budget shall be accompanied with the details of the proposed expenditures.

Whenever the trustees adopt a preliminary emergency budget for the transportation fund, the trustees shall attach to such budget a copy of each transportation contract which is connected with the emergency and which has been prepared and executed in accordance with the school transportation contract laws.

After the trustees have adopted the preliminary emergency budget by a majority vote of the trustees, it shall be signed by the chairman of the trustees and the clerk of the district and two (2) copies of it shall be sent to the county superintendent as clerk of the budget board. The county superintendent shall place such preliminary emergency budget before the budget board at the next regular meeting of the board of county commissioners. The budget board shall consider and adopt the final emergency budget and shall have the power to make any change in the preliminary emergency budget that it

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may deem necessary and proper. After the budget board has adopted the final emergency budget, the chairman and the clerk of the budget board shall sign such budget.

Section 234. Section 75-6728. Filing and delivery of adopted emergency budget. After the emergency budget has been approved by the budget board, the final emergency budget shall be filed in the office of the county superintendent, as clerk of the budget board, and the county superintendent shall immediately send a copy of such budget with a notation of the adoption date and any changes made by the budget board to the applicable district, county treasurer, and the superintendent of public instruction.

Section 235. Section 75-6729. State financial aid for emergency budgets. Whenever a final emergency budget has been adopted for the general fund or the transportation fund to finance the cost of an emergency due to an increased enrollment or any other reason approved by the superintendent of public instruction under the provisions of section 75-6725, the trustees may apply to the superintendent of public instruction for an increased payment from the state public school equalization aid account for the foundation program or for state transportation reimbursement, or both. The superintendent of public instruction shall publish rules and regulations for such application. The superintendent of public instruction shall approve or disapprove each application for increased state aid made in accordance with this section. When the superintendent of public instruction approves an application, he shall determine the additional amount of state aid from the state public school equalization aid account or the state transportation reimbursement which will be made

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available to the applicant district because of the emergency caused by an increase in enrollment. The superintendent of public instruction shall notify the applicant district of his approval or disapproval and, in the event of approval, the amount of additional state aid that will be made available for the general fund or the transportation fund. The superintendent of public instruction shall disburse such emergency state aid to the eligible district at the time the next regular state aid payment is made.

Section 236. Section 75-6730. Determination of available financing and fixing and levying property taxation for an emergency budget. After the last day of the school fiscal year for which an emergency budget has been adopted, the county treasurer shall determine the amount of the cash balance that is available to finance the emergency budget's outstanding warrants or registered warrants for each fund included on the emergency budget. The available amount of the cash balance of each fund shall be determined by deducting from the county treasurer's year-end cash balance for such fund, the outstanding or registered warrants issued under the regularly adopted final budget for such fund and the cash reserve for such fund which the trustees have established, within the limitations of law, for the following school fiscal year.

The county treasurer shall prepare and deliver a statement on the financial status of each fund included on an emergency budget for a district having such a budget during the preceding year to the board of county commissioners by the first Monday in August. Such statement for each district emergency budget shall include: (1) the total amount of the issued emergency warrants that are outstanding or registered

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against each fund of the district;

(2) the amount of the cash balance in each fund included on the emergency budget which is available to finance such outstanding or registered warrants; and

(3) after consideration of the available money in subsection (2), the additional amount of money which is required to finance the outstanding warrants or registered warrants and interest on such warrants and which must be raised by a tax levy.

For each fund of the emergency budget of each district requiring a tax levy as established by subsection (3) of the county treasurer's statement, the board of county commissioners shall, at the time all other district and county taxes are fixed and levied, levy a tax on the taxable property of each applicable district that will raise sufficient financing to pay the amount established by the county treasurer.

Section 237. Section 75-6801. Fund definitions. As used in this title, unless the context clearly indicates otherwise:

A "fund" means a separate detailed account of receipts and expenditures for a specific purpose as authorized by law. Funds are classified as follows: (1) A "budgeted fund" means any fund for which a budget must be adopted in order to expend any monies from such fund. The general fund, transportation fund, bus depreciation reserve fund, elementary tuition fund, retirement fund, debt service fund, leased facilities fund, building reserve fund, adult education fund, non-operating fund, post-secondary vocational-technical center fund and any other funds so designated by the legislature shall be budgeted funds.

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(2) A "non-budgeted fund" means any fund for which a budget is not required in order to expend any monies on deposit in such fund. The school food services fund, miscellaneous federal programs fund, building fund, housing and dormitory fund, traffic education fund, interlocal cooperative fund and any other funds so designated by the legislature shall be non-budgeted funds.

Section 238. Section 75-6802. Application of law and superintendent of public instruction supervision. The school financial administration provisions of this title shall apply to all monies of any district or any community college district, excepting the extra-curricular monies realized from pupil activities. The superintendent of public instruction shall have general supervision over the school financial administration provisions as prescribed by law and shall have the duty to establish such rules and regulations as are necessary to secure compliance with the law.

Section 239. Section 75-6803. County officials for financial administration when joint district. When all of the schools of the joint district are located in one (1) county, the school financial administration duties assigned to county officials shall be performed by those officials of the county wherein the schools of the district are located. When the schools of a joint district are located in more than one (1) county, the superintendent of public instruction shall designate the county officials of the same county to perform such duties for the joint district as were designated to perform the budgeting duties for the joint district under the provisions of section 75-6720.

The designated county treasurer shall be the custodian

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of all joint district monies and shall perform all other duties of the county treasurer for the joint district. The superintendent of public instruction shall disburse all monies for a joint district to such county treasurer.

Section 240. Section 75-6804. Annual financial report of county superintendent. No later than the first day of September of each school fiscal year, the county superintendent shall report to the superintendent of public instruction the financial activity during the preceding school fiscal year of each district of the county in accordance with the reporting requirements prescribed by the superintendent of public instruction. Such reports shall be prepared on forms provided by the superintendent of public instruction.

Section 241. Section 75-6805. Duties of county treasurer. The county treasurer of each county shall: (1) receive and hold all school monies subject to apportionment, and keep a separate accounting of their apportionments to the several districts which are entitled to a portion of such monies according to the apportionments ordered by the county superintendent. A separate accounting shall be maintained for each county fund supported by a county-wide levy for a specific, authorized purpose, including:

(a) the basic county tax in support of the elementary foundation programs,

(b) the basic special tax for high schools in support of the high school foundation programs,

(c) the county tax in support of the county's high school transportation obligation,

(d) the county tax in support of the nigh school obligations to the retirement systems of the state of Montana,

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(e) any additional county tax required by law to provide for deficiency financing of the elementary foundation programs,

(f) any additional county tax required by law to provide for deficiency financing of the high school foundation programs,

(g) the county tax for a post-secondary vocational-technical center when levied by the board of county commissioners, and

(h) any other county tax for schools which may be authorized by law and levied by the county commissioners;

(2) whenever requested, notify the county superintendent of the amount of county school monies on deposit in each of the funds enumerated in subsection (1) of this section and the amount of any other school monies subject to apportionment, and apportion such county and other school monies to the districts in accordance with the apportionment ordered by the county superintendent;

(3) keep a separate, detailed accounting of the expenditures by budget appropriation item within each budgeted fund included on the final budget of each district;

(4) keep a separate, detailed accounting of the receipts, expenditures, and cash balances for each budgeted fund included on the final budget of each district and for each non-budgeted fund established by each district;

(5) except as otherwise limited by law, pay all warrants properly drawn on the county or district school monies and properly endorsed by their holders;

(6) receive all revenue collected by and for each district and deposit these receipts in the fund designated by

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law, or by the district if no fund is designated by law. Interest and penalties on delinquent school taxes shall be credited to the same fund and district for which the original taxes were levied;

(7) send all revenues received for a joint district, part of which is situated in his county, to the county treasurer designated as the custodian of such revenues, no later than the fifteenth day of December of each year and every three months thereafter until the end of the school fiscal year;

(8) register district warrants drawn on a budgeted fund in accordance with sections 16-2604, R.C.M., 1947, when there are insufficient monies available in such budgeted fund to make payment of such warrant. Redemption of registered warrants shall be made in accordance with section 16-2605, 16-2602, and 16-2607, R.C.M., 1947;

(9) invest the monies of any district as directed by the trustees of the district but in accordance with subsection (2) of section 16-2050 or subsection (8) of section 16-2618, R.C.M., 1947, whichever is applicable; and

(10) give to the trustees of each district, at least quarterly, an itemized report for each fund maintained by the district showing the paid warrants, outstanding warrants, registered warrants, amount and types of revenue received, and the cash balance.

Section 242. Section 75-6806. Duties of trustees. The trustees of each district shall have the sole power and authority to transact all fiscal business and execute all contracts in the name of such district. No person, other than the trustees, acting as a governing board, shall have the

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authority to expend monies of the district. In conducting the fiscal business of the district, the trustees shall: (1) cause the keeping of an accurate, detailed accounting of all receipts and expenditures of school monies for each fund maintained by the district in accordance with rules and regulations prescribed by the superintendent of public instruction. The record of such accounting shall be open to public inspection at any meeting of the trustees;

(2) excepting payments under employee contracts, authorize all expenditures of district monies by the written approval of claims for such expenditures, and cause warrants to be issued for the payment of approved claims and payments under employee contracts;

(3) have the authority to issue warrants on any budgeted fund in anticipation of budgeted revenues, except that such expenditures shall not exceed the amount budgeted for such fund;

(4) invest any monies of the district in accordance with subsection (2) of section 16-2050 or subsection (8) of section 16-2618, R.C.M., 1947, whichever is applicable, whenever in the judgment of the trustees such investment would be advantageous to the district;

(5) report annually to the county superintendent not later than the first day of August, the financial activities of each fund maintained by the district during the last completed school fiscal year on the forms prescribed and furnished by the superintendent of public instruction. Annual fiscal reports for joint school districts shall be submitted to the county superintendent of each county in which part of the joint district is situated. Any elementary district that

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fails to submit the annual report by the time required shall not be entitled to receive any apportionment of the state interest and income monies and such forfeited monies shall be apportioned to the other elementary districts of the county;

(6) whenever requested, report any other fiscal activities to the county superintendent, superintendent of public instruction, or board of education;

(7) cause the accounting records of the district to be audited annually as required by law; and

(8) perform, in the manner permitted by law, such other fiscal duties that are in the best interests of the district.

Section 243. Section 75-6807. Examination of district accounting records. The accounting records of all first- and second-class district and each third-class district maintaining a high school shall be audited annually by the state examiner in accordance with section 82-1008, R.C.M., 1947.

Annually and at such other times as directed by the board of county commissioners or trustees, the county auditor, or the county treasurer if there is no county auditor, shall audit the accounting records of each third-class district that does not maintain a high school. Such district shall deliver all accounting records to the auditing county official no later than the fifteenth day of July for the audit of the financial activity of the last completed school fiscal year. The auditing county official shall examine the accounting records, prepare an audit report and shall: (1) return the accounting records to the district no later than the fifteenth day of August;

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(2) send a copy of the audit report to the chairman of the trustees; and

(3) file copies of the audit report with the county superintendent and the county clerk and recorder.

Section 244. Section 75-6808. Pecuniary interest, letting contracts and calling for bids, under certain circumstances. It shall be unlawful for any trustee to have any pecuniary interest, either directly or indirectly, in the erection of any school building, or for warming, ventilating, furnishing, or repairing the same, or be in any manner connected with the furnishing of supplies for the maintenance and operation of the schools.

The trustees of any district shall not let any contract for building, furnishing, repairing or other work for the benefit of the district, or purchasing supplies for the district, without first advertising in a newspaper that will give notice to the largest number of people of the district as determined by the trustees for at least two (2) weeks, calling for bids to perform such work or to furnish such supplies, except: (1) the trustees of a third-class district only maintaining elementary schools with fewer than three (3) rooms may contract for such work or supplies without advertising and without bids, when the amount involved is less than eight hundred dollars ($800);

(2) the trustees of a third-class district, other than those described in subsection (1), may contract for such work or supplies, without advertising and without bids, when the amount involved is less than fifteen hundred dollars ($1,500); and

(3) the trustees of a second-class district or a first-

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class district may contract for such work or supplies, without advertising and without bids, when the amount involved is less than two thousand five hundred dollars ($2,500).

In all cases where bidding is required, the trustees shall award the contract to the lowest responsible bidder except that the trustees shall have the right to reject any or all bids.

With regard to contracting for work or supplies, the board of trustees of a community college district shall be subject to the provisions of section 75-8118.

Section 245. Section 75-6809. Entering appropriations on accounting records of county treasurer. When the county treasurer receives the final budgets of the districts from the county superintendent, he shall open a fund for each budgeted fund included on the final budget of each district by entering the amount appropriated for each item on his accounting record.

Whenever the county treasurer receives a final emergency budget for a district from the county superintendent, he shall increase the item appropriations of the regularly adopted final budget by the amount of the emergency budget appropriations for each item of each budgeted fund included on the final emergency budget.

Section 246. Section 75-6810. Procedure for issuance of warrants. The trustees of each district shall issue all warrants in triplicate and the warrants shall identify: (1) the budgeted fund or non-budgeted fund on which the warrant is drawn;

(2) the appropriation item of the budgeted fund or the type of expenditure for a non-budgeted fund on which the war-

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rant is drawn; and

(3) the warrant as an emergency warrant, if it is drawn on an emergency budget.

Any warrant issued by a district shall be countersigned by the chairman of the trustees and the clerk of the district before the warrant shall be nogotiable. Facsimile signatures may be used in accordance with the provisions of chapter 13 of title 59, R.C.M., 1947, provided that the facsimile signature device shall not be available to the other countersigner of the warrant.

The original copy of the warrant shall be delivered to the payee; the duplicate shall be sent immediately to the county treasurer; and the triplicate shall be retained by the district for accounting record purposes. The duplicate and triplicate copies shall be identified on the face of the warrant as "Not Negotiable--Copy of Original."

Section 247. Section 75-6811. Recording and payment of warrants by county treasurer. Immediately after receiving a duplicate warrant from a district, the county treasurer shall enter the amount and number of such warrant on his accounting records under the fund and appropriation item identified on such warrant. The recording of the warrants shall allow for the computation of the unexpended appropriation amount of appropriation items of a budgeted fund from the acounting records.

Whenever it appears to the county treasurer that an appropriation item of a budgeted fund is so nearly exhausted that the issuance of another warrant will cause the overexpenditure of such appropriation item, the county treasurer shall immediately notify the appropriate district of the expended

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condition of the appropriation item and the district shall not issue another warrant against such appropriation item until its budgeted amount has been increased.

After receiving a duplicate warrant which will exceed the unexpended balance of an original or revised amount of an appropriation item of a budgeted fund, the county treasurer shall immediately notify the district of such overdraft. If the district has not corrected the overdraft of an appropriation item before the presentation of the original warrant for payment, the county treasurer shall refuse to pay or register such warrant, and shall endorse across the face of such warrant "Payment and Registration Refused, Insufficient Appropriation" and return the warrant to the person presenting it for payment of registration.

Whenever a warrant will overexpend the cash balance of a non-budgeted fund, the county treasurer shall refuse to pay or register such warrant, and shall endorse across the face of such warrant "Payment and Registration Refused, Insufficient Funds" and return the warrant to the person presenting it for payment. The county treasurer shall immediately notify the district of such refusal to pay or register the warrant drawn on a non-budgeted fund.

Section 248. Section 75-6812. Transfer among appropriation items of a fund. Whenever it appears to the trustees of any district that the appropriated amount of any item of a budgeted fund of the final budget or the emergency budget is in excess of the amount actually required during the school fiscal year for such appropriation item, the trustees may transfer any or all of the excess appropriation amount to any other appropriation item of the same budgeted fund.

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Such transfers shall not be made between different funds of the same district or between similar funds of different districts except as specifically provided by this title. The trustees shall immediately notify the county treasurer in writing of any transfer between appropriation items and the county treasurer shall enter such transfer on his accounting records.

Section 249. Section 75-6813. Lapse of budgeted appropriations and provision for unpaid claims. All appropriations for a budgeted fund in the regular or emergency budget for a given school fiscal year shall lapse on the last day of such school fiscal year except the appropriations for uncompleted improvements in progress of construction. Any lawful claim presented to the district for payment under a lapsed appropriation shall be an obligation of the budget for the next ensuing school fiscal year.

Section 250. Section 75-6814. Expenditure limitation and cash retention of non-budgeted fund. The expenditure limitation, at any time during the school fiscal year, for a non-budgeted fund shall be the amount of cash balance of such non-budgeted fund. The cash balance of a non-budgeted fund shall remain to the credit of such non-budgeted fund from year to year unless a transfer is specifically authorized by this title.

Section 251. Section 75-6901. Purpose and definition of foundation program and general fund. A uniform system of free public schools, sufficient for the education of and open to all school-age children of the state shall be established and maintained throughout the state of Montana. The state shall aid in the support of its several school districts on

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the basis of their financial need as measured by the foundation program and in the manner established in this title.

The principal budgetary vehicle for achieving the minimum financing as established by the foundation program shall be the general fund of the district. The purpose of the general fund shall be to finance those general maintenance and operational costs of a district not financed by other funds established for special purposes in this title.

The amount of the general fund budget for each school fiscal year shall not exceed the financing limitations established by this title but shall be no less than the amount established by law as the foundation program. The general fund budget shall be financed by the foundation program revenues and may be supplemented by the permissive levy and additional voted levies, in the manner provided by law.

Section 252. Section 75-6902. Definition and calculation of average number belonging (ANB). The term "average number belonging" or "ANB" shall mean the average number of regularly enrolled, full-time pupils attending the public schools of a district. Average number belonging shall be computed by determining the total of the aggregate days of attendance by regularly enrolled, full-time pupils during the current school fiscal year plus the aggregate days of absence by regularly enrolled, full-time pupils during the current school fiscal year, and by dividing such total by one hundred eighty (180). Attendance for a part of a morning session or a part of an afternoon session by a pupil shall be counted as attendance for one-half (1/2) day. When any pupil has been absent, with or without excuse, for more than ten (10) consecutive school days, including pupil instruction

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related days, his absence after the tenth (10th) day of absence shall not be included in the aggregate days of absence and his enrollment in the school shall not be considered in the calculation of the average number belonging until he resumes attendance at school.

The average number belonging of the regularly enrolled, full-time pupils for the pubilc schools of a district shall be calculated, individually, for each school except that when: (1) more than one school of a district, other than a junior high school in an elementary district which has been approved and accredited as a junior high school, is located within the incorporated limits of a city or town, the average number belonging of such schools shall be based on the aggregate of all the regularly enrolled, full-time pupils attending such schools located witnin the incorporated limits of a city or town;

(2) a junior high school which has been approved and accredited as a junior high school is located within the incorporated limits of a city or town in which a high school is located, all of the regularly enrolled, full-time pupils of the junior high school shall be considered as high school district pupils for the purposes of calculating the average number belonging of the high schools located within the incorporated limits of such city or town; or

(3) a school has not been accredited by the board of education, the regularly enrolled, full-time pupils attending the non-accredited school shall not be eligible for average number belonging calculation purposes, nor will an average number belonging for the non-accredited school be used in determining the foundation program for such district.

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Regularly enrolled, full-time pupils who have reached the age of six years and who are attending a kindergarten program of an elementary district established under the provisions of section 75-7507 may be included in the calculation of the average number belonging of each school conducting a kindergarten program.

Section 253. Section 75-6903. Circumstances under which the regular average number belonging may be increased. The average number belonging of a school for a given school fiscal year, calculated in accordance with the ANB formula prescribed in section 75-6902, may be increased when: (1) the opening of a new elementary school or the reopening of an elementary school has been approved in accordance with section 75-6602. The average number belonging for such school shall be established by the county superintendent and approved, disapproved or adjusted by the superintendent of public instruction;

(2) the opening or reopening of a high school or a branch of the county high school has been approved in accordance with sections 75-6603, 75-6604 or 75-6605. The average number belonging for such high school shall be established by the county superintendent's estimate, after an investigation of the probable number of pupils that will attend such high school;

(3) a district anticipates an increase in the average number belonging due to the closing of any private or public school in the district or a neighboring district. The estimated increase in average number belonging shall be established by the trustees and the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction no later than the fourth Monday in June;

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(4) the district is conducting, or will conduct during the ensuing school fiscal year, a special education class or program. The authorized increase in the average number belonging is prescribed by section 75-7813 and shall be available only when the operation of such special education class or program has been approved by the superintendent of public instruction in accordance with the special education law. In order to obtain the benefit of this increased average number belonging, a school shall not include the pupils attending a full-time special education class or program in the regular calculation of the average number belonging; or

(5) a district anticipates an unusual enrollment increase in the ensuing school fiscal year. The increase in average number belonging shall be based on estimates of increased enrollment approved by the superintendent of public instruction and shall be computed in the manner prescribed by section 75-6904.

Section 254. Section 75-6904. Procedures for determining eligibility and amount of increased average number belonging due to unusual enrollment increase. A district which anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in subsection (5) of section 75-6903, may increase its foundation program for the ensuing school fiscal year in accordance with the following provisions: (1) To determine if a district is eligible for an increased foundation program due to an unusual enrollment increase, the average number belonging used for the establishment of the foundation program for the current year and for each year of the immediately preceding three (3) years shall be used to calculate the percentage increase or decrease

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in average number belonging for the current year's foundation program over the immediately preceding year, and similarly calculate the percentage increase or decrease in average number belonging for each of the two preceding years. The three (3) annual percentage increases or decreases shall be averaged to obtain the average annual percentage increase or decrease in average number belonging. The district shall be eligible for the unusual enrollment increase if the average annual increase is not less than three per cent (3%).

(2) When a district is eligible under subsection (1), the district shall estimate the current year's average number belonging by totaling the aggregate days of attendance and aggregate days of absence realized in the district through April 30 and dividing such total by one hundred eighty (180). The resulting average number belonging shall be increased by the ratio that the total number of planned school days in the current school fiscal year bears to the number of school days completed through April 30.

(3) Prior to May 10, the district shall estimate the probable average number belonging to be realized during the ensuing school fiscal year, based on as much factual information as may be available to the district.

(4) No later than May 10, the district shall submit its application for an unusual enrollment increase to the board of school budget supervisors (budget board). Such application shall include: (a) the computation of the average annual percentage increase in average number belonging as provided in subsection (1) above;

(b) the estimate of the current school fiscal year's average number belonging, as provided in subsection (2) above;

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(c) the estimated average number belonging for the ensuing school fiscal year, including the factual information on which the estimate is based, as provided in subsection (3) above; and

(d) any other information or data that may be requested by the budget board.

(5) The budget board shall review the application to determine if the district is eligible for an increase in its foundation program as provided in subsection (1) above and to determine if the estimate of the anticipated increase in average number belonging is substantiated. The budget board may then accept, reject, or adjust the district's estimate of the ensuing year's average number belonging. After approving an estimate, the budget board shall:

(a) determine the percentage increase which the estimated average number belonging for the ensuing school fiscal year is over the estimated average number belonging for the current school fiscal year as provided for in subsection (2) above; and

(b) approve an increase of the average number belonging used to establish the ensuing year's foundation program in accordance with subsection (7) if the increase in subsection (5) (a) above is at least twice the average annual percentage increase as provided in subsection (1) above.

(6) If the budget board approves the application for an unusual enrollment increase, it shall send the application to the superintendent of public instruction together with any other information or data requested by the superintendent of public instruction on or before May 25. The superintendent of public instruction shall immediately review all the factors

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of the application and the approval of the budget board, and shall approve or disapprove the application or adjust the estimated average number belonging for the ensuing school fiscal year. The superintendent of public instruction shall notify the district of his decision by the fourth Monday in June.

(7) Whenever an unusual enrollment increase is approved by the superintendent of public instruction, the increase of the average number belonging used to establish the foundation program for the ensuing school fiscal year shall be computed as follows:

(a) after the actual average number belonging for the current shcool fiscal year has been computed, the normal average number belonging increase is determined by applying the annual percentage increase, as computed in subsection (1) above, to the actual average number belonging for the current school fiscal year;

(b) subtract the actual average number belonging for the current school fiscal year from the approved estimated average number belonging for the ensuing school fiscal year; and

(c) the difference between the amount determined in subsection (7) (b) above and the amount determined in subsection (7) (a) above shall be the maximum allowable increase added to the actual average number belonging for the current school fiscal year for the purpose of establishing the ensuing year's foundation program.

Section 255. Section 75-6905. Maximum-general-fund-budget-without-a-valid-levy schedules for elementary and high schools. The total amount of the general fund budget of any district shall not be greater than the general fund budget

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amount specified in the following schedules, except when a district has adopted an emergency general fund budget under the provisions of section 75-6727 or when a district has voted an additional levy under the provisions of section 75-6923.

Elementary Schools

(1) For each elementary school having an ANB of nine (9) or fewer pupils, the maximum shall be seventy-two hundred forty-eight dollars ($7,248), if said school is approved as an isolated school.

(2) For each elementary school with an ANB of ten (10) pupils, but less than eighteen (18) pupils, the maximum shall be seventy-two hundred forty-eight dollars ($7,248) plus two hundred fourteen dollars ($214) per pupil on the basis of the average number belonging over nine (9).

(3) For each elementary school with an ANB of eighteen (18) pupils and employing one (1) teacher, the maximum shall be ninety-one hundred seventy dollars ($9,170) plus eighty-five dollars ($85) per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB over twenty-five (25).

(4) For each elementary school with an ANB of eighteen (18) pupils and employing two (2) full-time teachers, the maximum shall be sixteen thousand four hundred seventy dollars ($16,470) plus eighty-five dollars ($85) per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB over fifty (50).

(5) For each elementary school having an ANB in excess of forty (40) the maximum on the basis of the total pupils (ANB) in the district for elementary pupils will be as follows:

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(a) For each elementary school having an ANB of more than forty (40) and employing a minimum of three (3) teachers, the maximum of five hundred eighty dollars and twenty cents ($580.20) per pupil shall be decreased at the rate of forty-three cents ($.43) for each additional pupil over forty (40) until the total number (ANB) shall have reached a total of one hundred (100) pupils.

(b) For each elementary school having an ANB of more than one hundred (100) pupils, the maximum of five hundred fifty-four dollars ($554) per pupil shall be decreased at the rate of fifty-one cents ($.51) for each additional pupil over one hundred (100) until the ANB shall have reached three hundred (300) pupils.

(c) For each elementary school having an ANB of more than three hundred (300) pupils, the maximum shall not exceed four hundred fifty-one dollars and thirty-five cents ($451.35) per pupil.

(6) The maximum per pupil, for all pupils (ANB) and for all elementary schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB. All elementary schools operated within the incorporated limits of a city or town shall be treated as one school for the purpose of this schedule.

High Schools

(7) For each high school having an ANB of twenty-four (24) or fewer pupils, the maximum shall be thirty-five thousand four hundred forty dollars ($35,440).

(8) For each high school having an ANB of more than twenty-four (24) pupils, the maximum fourteen hundred seventy-six dollars and thirty-five cents ($1,476.35) per pupil shall

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be decreased at the rate of nine hundred dollars and seventy-five cents ($9.75) for each additional pupil over twenty-four (24) until the ANB shall have reached a total of forty (40) such pupils. For each high school having an ANB of more than forty (40) pupils, the maximum of thirteen hundred twenty dollars and thirty-five cents ($1,320.35) per pupil shall be decreased at the rate of six dollars and sixty cents ($6.60) for each additional pupil over forty (40) until the ANB shall have reached one hundred (100) pupils. For each high school having an ANB of more than one hundred (100) pupils, a maximum of nine hundred twenty-three dollars and seventy-five cents ($923.75) per pupil shall be decreased at the rate of two dollars and fifteen cents ($2.15) for each additional pupil over one hundred (100) until the ANB shall have reached two hundred (200) pupils. For each high school having an ANB of more than two hundred (200) pupils, the maximum of seven hundred eight dollars and seventy-five cents ($708.75) per pupil shall be decreased by forty-nine cents ($.49) for each additional pupil over two hundred (200) until the ANB shall have reached three hundred (300) pupils. For each high school having an ANB of more than three hundred (300) pupils, the maximum of six hundred sixty dollars ($660) per pupil shall be decreased at the rate of twelve and one-half cents ($.125) per pupil until the ANB shall have reached six hundred (600) pupils. For each high school having an ANB over six hundred (600) pupils, the maximum shall not exceed six hundred twenty-two dollars and fifty cents ($622.50) per pupil.

(9) The maximum per pupil for all pupils (ANB) and for all high schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB.

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All high schools and junior high schools which have been approved and accredited as junior high schools, operated within the incorporated limits of a city or town shall be treated as one school for the purpose of this schedule.

(10) The general fund budget amount for an approved and accredited junior high school shall be prorated between the elementary district general fund budget and the high school district general fund budget in the following manner:

(a) determine the per-ANB schedule amount for the school, as defined by this section, from the high school schedule;

(b) calculate the ANB for the regularly enrolled full-time pupils enrolled in the seventh (7th) and eighth (8th) grades of the junior high school;

(c) multiply the per-ANB schedule amount determined in subsection (a) by the ANB calculated in subsection (b) to determine the authorized general fund budget amount which shall be available for the elementary district general fund budget; and

(d) subtract the amount determined in subsection (c) from the total authorized general fund budget amount for the school to determine the authorized general fund budget amount which shall be available for the high school district general fund budget.

The general fund budget amount determined for each school of a district under the schedules provided in this section shall be totaled to determine the maximum-general-fund-budget-without-a-voted-levy for such district.

Section 256. Section 75-6906. Definition of foundation program and its proportion of the maximum-general-fund-with-

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out-a-voted-levy schedule amount, and non-isolated school foundation program financing. As used in this title, the term "foundation program" shall mean the minimum operating expenditures as established herein, that are sufficient to provide for the educational program of a school. It shall be financed by (1) county equalization monies, (2) state equalization aid, and (3) when required, monies from an additional county levy for a state deficiency. In addition, the elementary school foundation programs shall be supported by interest and income monies. The foundation program relates only to those expenditures authorized by a district's general fund budget and shall not include expenditures from any other fund.

The dollar amount of the foundation program shall be eighty per cent (80%) of the maximum general-fund-budget-without-a-voted-levy limitation as set forth in the schedules in section 75-6905. The foundation program of an elementary school having an ANB of nine (9) or fewer pupils which is not approved as an isolated school under the provisions of section 75-6608 shall be eighty per cent (80%) of the schedule amount but the county and state shall participate in financing one-half (1/2) of the foundation program and the district shall finance the remaining one-half (1/2) by a tax levied on the property of the district. When a school of nine (9) or fewer pupils is approved as isolated under the provisions of section 75-6608, the county and state shall participate in the financing of the total amount of the foundation program.

Section 257. Section 75-6907. Definition of interest and income monies. As used in this title, the term "interest and income monies" shall mean the total of the following

revenues, as provided in section 5, article XI of the constitution of the state of Montana: (1) ninety-five per cent (95%) of the interest received from the investment of the public school fund;

(2) ninety-five per cent (95%) of the interest received from the investment of any other school funds held in trust by the state board of land commissioners;

(3) ninety-five per cent (95%) of the income received from the leasing of state school lands after any deductions that may be made under the provisions of chapter 24 of title 81, R.C.M., 1947; and

(4) ninety-five per cent (95%) of any other income derived from any other covenant affecting the use of state school lands.

The remaining five per cent (5%) of such revenues shall be annually credited to the public school fund.

Section 75-6908. Distribution of interest and income monies by superintendent of public instruction. The state board of land commissioners shall annually deposit the interest and income monies for each calendar year to the credit of the account established by the state treasurer for such monies by the last business day of February following the calendar year in which the monies were received.

On or before the first Monday of March the superintendent of public instruction shall distribute the total amount of the interest and income monies on deposit with the state treasurer to the several counties of the state. The amount to be distributed to each county shall be calculated as follows: (1) the total amount to be distributed shall be divided by the approved total number of school census children in the state

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of Montana, as established by the approved school census report of each district for the current school fiscal year under the provisions of sections 75-5936 and 75-5937, to determine the per census child payment of the interest and income monies; and

(2) the per census child payment determined in subsection (1) shall be multiplied by the approved number of school census children reported by each district of the county. The result is the portion of interest and income monies to be distributed to such county.

The total amount of the interest and income monies deposited with the state treasurer in accordance with this section shall be distributed in the annual distribution made by the superintendent of public instruction. The superintendent of public instruction shall certify to the county superintendent of each county, the amount of interest and income monies distributed to his county.

Section 259. Section 75-6909. Apportionment of interest and income monies by county superintendent. Immediately upon receipt of the interest and income monies from the superintendent of public instruction, the county superintendent shall apportion the county's receipt of interest and income monies to the several elementary districts of the county. Such apportionment shall not be made to any elementary district that: (1) will not operate at least one school during the current school fiscal year for at least one hundred eighty (180) days as provided in section 75-7402; or

(2) did not submit its annual fiscal report to the county superintendent by the first day of August as provided in subsection (5) of section 75-6806.

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Section 260. Section 75-6910. Procedure for distribution of interest and income monies in a county. The county superintendent shall order the county treasurer to distribute the interest and income monies to the eligible elementary districts on the following basis: (1) the total amount of interest and income monies received from the state shall be divided by the approved total number of census children in the eligible elementary districts of the county, to determine the per census child apportionment of the interest and income monies for the county; and

(2) the apportionment determined in subsection (1) shall be multiplied by the approved number of school census children reported by the district. The result is the portion of interest and income monies received by the county to be apportioned to such eligible district.

The total amount of the interest and income monies received from the state shall be apportioned by the county superintendent. The county treasurer shall credit the interest and income monies to the several elementary districts of the county in accordance with the apportionment order of the county superintendent.

Section 261. Section 75-6911. Budget estimations of interest and income monies. The interest and income monies shall be the first source of revenue in calculating the financing of an elementary district foundation program. In June, the superintendent of public instruction shall estimate a statewide per census child payment of the estimated interest and income monies that will be available for the ensuing school fiscal year distribution. The superintendent of public instruction shall notify the county superintendents of such

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estimate by the first day of July. For budgeting purposes, the county superintendent shall use the per census child estimate of the superintendent of public instruction and the approved number of school census children from the last completed census report of the district to estimate the interest and income monies available for the financing of the ensuing year's foundation program.

Section 262. Section 75-6912. Basic county tax and other revenues for county equalization of the elementary district foundation program. It shall be the duty of the county commissioners of each county to levy an annual basic tax of twenty-five (25) mills on the dollar of the taxable value of all taxable property within the county unless a basic levy of less than twenty-five (25) mills is sufficient to finance the total amount of the foundation programs of all the elementary districts of the county. In order to determine if a lesser levy will be sufficient, the sum of the estimated revenues identified in subsections (1) through (6) below shall be subtracted from the sum of the county elementary transportation obligation and the total of the foundation programs of all elementary districts of the county. If a basic levy of less than twenty-five (25) mills is sufficient to finance the difference determined above, the county commissioners shall fix a basic levy of such amount. No elementary district within a county levying less than twenty-five (25) mills shall receive any distribution of state equalization aid.

The proceeds realized from the levy prescribed by this section and the revenues from the following sources shall be used for the equalization of the elementary district foundation programs of the county as prescribed in section 75-6914

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and a separate accounting shall be kept of such proceeds and revenues by the county treasurer in accordance with subsection (1) of section 75-6805; (1) the portion of the federal forest reserve funds distributed to a county and designated for the common school fund under the provisions of section 79-205, R.C.M., 1947;

(2) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the common school fund under the provisions of section 79-702, R.C.M., 1947;

(3) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of section 79-2102, R.C.M., 1947;

(4) all monies which are paid into the county treasury as a result of fines for violations of law and the use of which is not otherwise specified by law;

(5) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account for the various sources of revenue established or referred to in this section; and

(6) any federal or state monies distributed to the county as payment in lieu of the property taxation established by the county levy required by this section.

Section 263. Section 75-6913. Basic special levy and other revenues for county equalization of high school district foundation program. It shall be the duty of the county commissioners of each county to levy an annual basic special tax for high schools of fifteen (15) mills on the dollar of the taxable value of all taxable property within the county unless a basic special levy for high schools of less than fifteen (15)

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mills is sufficient to finance the total amount of the foundation programs of all the high school districts of the county. In order to determine if a lesser levy will be sufficient, the estimated revenues identified in subsections (1) and (2) below shall be subtracted from the sum of the county's high school tuition obligation and the total of the foundation programs of all high school districts of the county. If a basic special levy for high schools of less than fifteen (15) mills is sufficient to finance the difference determined above, the county commissioners shall fix a basic special levy for high schools of such amount. No high school district within a county levying less than fifteen (15) mills shall receive any distribution of state equalization aid.

The proceeds realized from the levy prescribed in this section and the revenues from the following sources shall be used for the equalization of the high school district foundation programs of the county as prescribed in section 75-6914, and a separate accounting shall be kept of these proceeds by the county treasurer in accordance with subsection (1) of section 75-6805: (1) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account for deposit of the proceeds from the levy established in this section; and

(2) any federal or state monies distributed to the county as a payment in lieu of the property taxation established by the county levy required by this section.

Section 264. Section 75-6914. Apportionment of county equalization monies by county superintendent. The county superintendent shall separately apportion the revenues deposited in the basic county tax account and the revenues deposited

in the basic special tax for high schools account to the several districts of the county on a quarterly basis. Such apportionments shall be known as "county equalization monies." Before the county superintendent makes the quarterly apportionments, he shall: (1) deduct from the revenues available in the basic county tax account, the amount required for the quarter to pay the county's obligation for elementary transportation reimbursements; and

(2) deduct from the revenues available in the basic special tax for high schools account, the amount required for the quarter to pay the county's obligation for high school out-of-county tuition.

Section 265. Section 75-6915. Formulas for apportionment of county equalization monies. After making such deductions prescribed in section 75-6914, the county superintendent shall apportion the remaining amount of monies available in the basic county tax account to the several elementary districts of the county and in the basic special tax for high schools account to the several high school districts of the county in proportion to their needs under the foundation program in accordance with the following procedure:

Elementary Schools

(1) Determine the percentage that the sum of interest and income monies plus the county equalization monies available for the support of the foundation programs of the elementary districts in the county is of the total amount of the foundation programs of all such elementary districts.

(2) Determine the percentage that the interest and income monies available to each elementary district (excluding any county equalization monies) is of the amount of the

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foundation program of each such elementary district.

(3) Elementary districts in which the percentage determined in subsection (2) exceeds the percentage determined in subsection (1) shall not be entitled to an apportionment of the county equalization monies available for the equalization of the elementary district foundation program and shall be excluded from further consideration under this procedure.

(4) After elimination of elementary districts under subsection (3), determine the percentage that the sum of the interest and income monies available to all remaining elementary districts in the county plus the county equalization monies available for the support of the foundation programs of the elementary districts in the county is of the total amount of the foundation programs of all such remaining elementary district.

(5) The difference between the percentage determined in subsection (4) above and the percentage determined for such eligible elementary district in subsection (2) above, shall be multiplied by the foundation program amount for each remaining elementary district to determine the portion of the county equalization monies available to each eligible elementary district.

High Schools

(6) Determine the percentage that the county equalization monies available for the support of the foundation programs of the high school districts in the county is of the total amount of the foundation programs of all such high school districts.

(7) Multiply the foundation program amount of each high

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school district by the percentage determined in subsection (6) above to determine the portion of the county equalization monies available to each high school district.

No district shall be deprived of its needful share of the county monies apportioned under this section by reason of it being non-accredited. Nor shall any territory situated within a county be excluded from the apportionment of the county equalization monies under this section solely because such territory lies within the boundaries of a joint district. Cash balances to the credit of any district at the end of a school fiscal year shall not be considered in the apportionment procedure prescribed in this section.

When the total amount of the available county monies for apportionment under this section is greater than the amount of money to be apportioned under the apportionment procedure prescribed by this section, the excess amount of county monies shall be retained by the county to be considered as financing during the ensuing school fiscal year under the requirements of subsection (5) of section 75-6912 or subsection (1) of section 75-6913.

The county equalization monies apportioned under these procedures shall constitute the second source of revenue in calculating the financing of the elementary district foundation program and shall constitute the first source of revenue in calculating the financing of the high school district foundation program. The county superintendent shall use the apportionment procedure prescribed in this section in computing the estimated revenues for the financing of the ensuing year's foundation program for budgeting purposes.

Section 266. Section 75-6916. Definition of and revenue

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for state equalization aid. There shall be paid into the earmarked revenue fund, for state equalization aid to public schools of the state, twenty-five per cent (25%) of all monies received from the collection of income taxes under chapter 49 of title 84, R.C.M., 1947, and twenty-five per cent (25%) of all monies received from the collection of corporation license taxes under chapter 15 of title 84, R.C.M., 1947, as provided by section 84-1901, R.C.M., 1947. In addition to these revenues, one-half (1/2) of the monies received from the treasurer of the United States as the state's share of oil and gas royalties under the act of congress of February 25, 1920 shall be paid into the same earmarked revenue fund.

As used in this title, the term "state equalization aid" shall mean those monies deposited in the earmarked revenue fund as required in this section plus any legislative appropriation of monies from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

Section 267. Section 75-6917. Purpose of state equalization aid and duties of the board of education for distribution. The monies available for state equalization aid shall be distributed and apportioned to provide an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt service and for the payment of any and all costs and expense incurred in connection with any adult education program, kindergarten, recreation program, school food services program, new buildings, new grounds, and transportation.

The board of education shall administer and distribute the state equalization aid in the manner and with the powers

and duties provided by law. To this end, the board of education shall: (1) adopt policies for regulating the distribution of state equalization aid in accordance with the provisions of law;

(2) have the power to require such reports from the county superintendents, budget boards, county treasurers, and trustees as it may deem necessary; and

(3) in the months of December and April of each school fiscal year, order the superintendent of public instruction to distribute the state equalization aid on the basis of each district's annual entitlement to such aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of education shall not increase or decrease the state equalization aid distribution to any district on account of any difference which may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

Section 268. Section 75-6918. Duties of the superintendent of public instruction for state equalization aid distribution. The superintendent of public instruction shall administer the distribution of the state equalization aid by: (1) establishing each district's annual entitlement to state equalization aid, based on the data reported in the budget for each district that has been duly adopted for the current school fiscal year and verified by the superintendent of public instruction, and by applying such verified data under the provisions of the state equalization aid allocation procedure prescribed in section 75-6919;

(2) recommending to the board of education the annual

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entitlement of all districts to state equalization aid to enable the board of education to order the distribution of state equalization aid;

(3) distributing by state warrant the state equalization aid for each district entitled to such aid, to the county treasurer of the county where the district is located, in accordance with the distribution ordered by the board of education;

(4) keeping a record in his office of the full and complete data concerning monies available for state equalization aid and the entitlements for state equalization aid of the several districts of the state;

(5) reporting to the board of education at its meeting in July and December of each year, the estimated amount which will be available for state equalization aid for the next succeeding six month period, commencing on July 1 and January 1; and

(6) reporting to both branches of the state legislative assembly in any year when a session is convened the figures and data available in his office concerning distributions of state equalization aid during the preceding two school fiscal years, the amount of state equalization aid then available, the apportionment made of such available monies but not yet distributed, and the latest estimate of accruals of monies available for state equalization aid.

Section 269. Section 75-6919. Formula for state equalization aid apportionment. The superintendent of public instruction shall apportion the state equalization aid, individually for the elementary districts of a county or the high school districts of a county, in accordance with section

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75-6918 and on the basis of the following procedure: (1) Determine the percentage that the total funds available to all counties in the state in support of the foundation program (including the state monies available for state equalization aid) is of the total amount of the foundation programs of all counties;

(2) Determine the percentage that the total funds available in each county in support of the foundation programs in such county (excluding state monies available for state equalization aid) is of the total amount of the foundation programs of all districts of such county;

(3) Counties in which the percentage determined in subsection (2) exceeds the percentage determined in subsection (1) shall not be entitled to an apportionment of the state equalization aid;

(4) After elimination of the counties referred to in subsection (3), determine the percentage that the total monies available to all remaining counties in support of the foundation program (including the state monies available for state equalization aid) is of the total amount of the foundation programs of all such remaining counties;

(5) Each district of each remaining county shall be entitled to an apportionment of the state equalization aid which shall be the difference between the percentage determined in subsection (4) and the percentage determined for such county in subsection (2) multiplied by the foundation program amount for such district.

The superintendent of public instruction shall supply the county treasurer and the county superintendent with a report of the apportionments of state equalization aid to the

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several districts of the county and the state equalization aid shall be apportioned to such districts in accordance with such report.

Section 270. Section 75-6920. Estimation of state equalization level and state equalization aid for budget purposes. The apportionment of state equalization aid shall be the third source of revenue in calculating the financing of the elementary district foundation program and it shall be the second source of revenue in calculating the financing of the high school district foundation program. In order to allow for the estimation of the amount of money to be realized from this source of revenue when the county superintendent is estimating the general fund budget revenues, the superintendent of public instruction shall annually estimate a uniform percentage of each district's foundation program which state foundation program revenues and county equalization monies, together, will be capable of financing. Such estimate shall be called the "state equalization level" and shall be based on the best available data and calculated according to the allocation procedure provided in section 75-6919.

The superintendent of public instruction shall notify each county superintendent of the state equalization level estimate by the first day of July. The county superintendent shall use such estimated state equalization level in establishing the budget estimate of the financing available for each district's foundation program for the ensuing school fiscal year.

Section 271. Section 75-6921. Additional county levy for state deficiency. If the estimated state equalization level made under the provisions of section 75-6920 is less

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than one hundred per cent (100%), it shall be the duty of the county commissioners of each county to levy, separately for the elementary districts and the high school districts, additional taxes in such number of mills on the taxable value of all taxable property within the county as shall be required to complete the financing of the foundation programs of all elementary districts or all high school districts of the county.

As provided in section 75-6805, the county treasurer shall keep a separate accounting of the proceeds realized from these mill levies. The county superintendent shall apportion the proceeds of the mill levies to the elementary districts of the county or the high school districts of the county, whichever the case may be, on the following basis:

(1) Determine the total amount required from this source of revenue by the several elementary or high school districts of the county.

(2) Determine the total amount of monies available for this source of revenue.

(3) Calculate the percentage the amount determined in subsection (2) is of the amounts determined separately in subsection (1) for all elementary or all high school districts.

(4) Multiply each elementary district or each high school district requirement for this source of revenue by the percentage calculated in subsection (3).

When the total amount of the proceeds realized from these mill levies is greater than the requirements of all the elementary districts or high school districts of the county, whichever the case may be, the excess amount of county monies shall be retained by the county for reduction of the ensuing

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year's additional county levy for elementary schools or high schools.

The apportionment of county monies under this section shall be known as the "additional county levy for state deficiency" and it shall be the last source of revenue in calculating the financing of the elementary district foundation program and the high school district foundation program.

The county superintendent shall compute the budgeted requirement for this source of revenue for each district and for the county, and shall supply the county requirements for the elementary district foundation programs and the high school district foundation programs to the county commissioners on the second Monday of August in accordance with section 75-6717.

Section 272. Section 75-6922. Permissive levy. Whenever the trustees of any district shall deem it necessary to adopt a general fund budget in excess of the foundation program amount but not in excess of the maximum general fund budget amount for such district as established by the schedule in section 75-6905, the trustees shall adopt a resolution stating the reasons and purposes for exceeding the foundation program amount. The financing of such general fund budget amount shall be known as the "permissive levy," and it shall be financed by a levy on the taxable value of all taxable property within the district as prescribed in section 75-6926.

Section 273. Section 75-6923. Additional levy for general fund and election for authorization to impose. The trustees of any district may propose to adopt a budget in excess of the general fund budget amount for such district as established by the schedule in section 75-6905 for any of the

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following purposes: (1) building, altering, repairing or enlarging any schoolhouse of the district;

(2) furnishing additional school facilities for the district;

(3) acquisition of land for the district;

(4) proper maintenance and operation of the school programs of the district.

When the trustees of any district determine that an additional amount of financing is required for the general fund budget that is in excess of the statutory schedule amount, the trustees shall submit the proposition of an additional levy to raise such excess amount of general fund financing to the electors who are qualified, under section 75-6411, to vote upon such proposition. Such special election shall be called and conducted in the manner prescribed by this title for school elections. The ballot for such election shall state the amount of money to be raised by additional property taxation, the approximate number of mills required to raise such money, and the purpose for which such money will be expended, and it shall be in the following format:

PROPOSITION

Shall a levy be made in addition to the levies authorized by law in such number of mills as may be necessary to raise the sum of (state the amount to be raised by additional tax levy), and being approximately (give number) of mills, (insert the purpose for which the additional tax levy is made)?

☐ FOR the additional levy.

☐ AGAINST the additional levy.

If the election on an additional levy for the general fund is approved by a majority vote of those electors voting

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at such election, the proposition shall carry and the trustees may use any portion or all of the authorized amount in adopting the preliminary general fund budget. The trustees shall certify the additional levy amount authorized by such a special election on the budget form that is submitted to the county superintendent, and the county commissioners shall levy such number of mills on the taxable value of all taxable property within the district as prescribed in section 75-6926, as are required to raise the amount of such additional levy.

Authorization to levy an additional tax under the provisions of this section shall be effective for only one school fiscal year and shall be authorized by a special election conducted before the first day of August of the school fiscal year for which it is effective. Only one such additional levy for the maintenance and operation of the school programs of a high school district may be imposed by a high school district in a given school fiscal year.

Section 274. Section 75-6924. General fund cash reserve. At the end of each school fiscal year, the trustees of each district shall designate what portion of the general fund end-of-the-year cash balance shall be earmarked as cash reserve for the purpose of paying general fund warrants issued by the district from the first day of July to the last day of November of the ensuing school fiscal year. The amount of the general fund cash balance that is earmarked as cash reserve shall not exceed thirty-five per cent (35%) of the final general fund budget for the ensuing school fiscal year and shall not be used for property tax reduction in the manner permitted by subsection (2) of section 75-6926 for other re-

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ceipts. Any portion of the general fund end-of-the-year cash balance that is not earmarked for cash reserve purposes shall be cash reappropriated which shall be used for property tax reduction as provided in subsection (2)(c) of section 75-6926.

Section 275. Section 75-6925. Eligibility for and payment of state impact aid. Any district which shall have children of employees of a public institution may be eligible for state impact aid under the following provisions: (1) An "employee" means an employee of a public institution under the administration of the department of public institutions as defined in section 80-1403, R.C.M., 1947, who resides on the property of such a public institution;

(2) A school district shall receive annually from monies available for state equalization aid one hundred fifty dollars ($150) for each elementary pupil, and two hundred fifty dollars ($250) for each high school pupil, whose parents are employees of an institution located in the school district where the pupil attends school or in a school district which has a tuition agreement with the district where the pupil attends school;

(3) A district which is eligible for state impact aid shall apply for such aid to the superintendent of public instruction in the manner prescribed by the rules and regulations prescribed by the superintendent of public instruction; and

(4) The distribution of state impact aid shall be deposited in the general fund of the district and shall not be considered as a part of the state equalization aid but shall be used to reduce the property tax in support of the general

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fund of the district.

Section 276. Section 75-6926. Computation of general fund net levy requirement by county superintendent. The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure: (1) Determine the total of the district's non-isolated school foundation program requirement to be met by a district levy as provided in section 75-6906, the district's permissive levy amount as provided in section 75-6922, and any additional levies authorized by the electors of the district under the provisions of section 75-6923; except that the total of the permissive and additional levies shall not exceed the total amount of the final general fund budget less the foundation program.

(2) Determine the total of the monies available for the reduction of the property tax on the district for the general fund by totaling:

(a) anticipated federal monies received under the provisions of Title I of Public Law 81-874 or other anticipated federal monies received in lieu of such federal act;

(b) anticipated tuition payments for out-of-district pupils under the provisions of sections 75-6317, 75-6320, 75-7321 and 75-7203;

(c) general fund cash reappropriated, as established under the provisions of section 75-6924;

(d) anticipated state impact aid received under the provisions of section 75-6925;

(e) anticipated interest to be earned by the investment of general fund cash in accordance with the provisions of subsection (4) of section 75-6806; and

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(f) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year which may be used to finance the general fund.

(3) Subtract the total of the monies available to reduce the property tax required to finance the general fund that has been determined in subsection (2) from the total levy requirement determined in subsection (1).

(4) The net general fund levy requirement determined in subsection (3) shall be reported to the county commissioners on the second Monday of August by the county superintendent as the general fund levy requirement for the district, and a levy shall be made by the county commissioners in accordance with section 75-6717.

Section 277. Section 75-6927. Proration and calculation of foundation program for a joint district. In joint districts, the foundation program shall be prorated among the counties in which any part of the joint district is located for the purpose of determining the amount of each source of revenue for the foundation program for which each county is obligated. The proration of the joint district foundation program shall be calculated as follows: (1) Divide the joint district foundation program by the ANB of the joint district to determine the per ANB amount of the foundation program.

(2) Determine the ANB for each county's portion of the joint district on the basis of each pupil's resident county. When taken together, the sum of the ANB assigned to all the counties shall equal the total ANB for the joint district.

(3) Multiply the per ANB amount of the foundation program determined in subsection (1) by the ANB for each county's portion as determined in subsection (2) to determine the

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portion of the foundation program for each county.

The portion of a joint district foundation program for each county, as determined in subsection (3) of this section, shall be considered as a separate foundation program in such county for the purposes of calculating the various revenues for the foundation program. The interest and income monies available to joint elementary districts shall be considered as prorated to the several counties on the basis of each child's county of residence. After the calculation of the foundation program revenues, the remainder of the general fund revenues shall be calculated in accordance with the provisions for general fund financing.

Section 278. Section 75-7001. Definitions. As used in this title, unless the context clearly indicates otherwise:

"Transportation" shall mean: (1) a district's conveyance of a pupil by a school bus between his legal residence and the school designated by the trustees for his attendance; or

(2) "individual transportation" whereby a district is relieved of actually conveying a pupil. Such individual transportation may include paying the parent or guardian for conveying the pupil, reimbursing the parent or guardian for the pupil's board and room, or providing supervised correspondence study or supervised home study.

An "eligible transportee" shall mean a public school pupil who: (1) is not less than six (6) years of age nor has attained his twenty-first (21st) birthday;

(2) is a resident of the state of Montana;

(3) regardless of district and county boundaries, re-

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sides at least three (3) miles, over the shortest practical route, from the nearest operating public elementary school or public high school, whichever the case may be; and

(4) is deemed by law to reside with his parent or guardian who maintains legal residence within the boundaries of the district furnishing the transportation regardless of where the eligible transportee actually lives when attending school.

Section 279. Section 75-7002. School bus definition and identification requirements. A "school bus" shall mean any motor vehicle which is owned by a district or other public agency or by a carrier under contract with such a district or public agency, and which complies with the bus standards established by the board of education as determined by the Montana highway patrol's annual inspection of school buses and the superintendent of public instruction. Such bus may be operated by the district or other public agency for the conveyance of pupils or may be privately operated by a carrier to provide such conveyance of pupils under contract with a district or other public agency. Every school bus shall bear on the front and rear of the bus a plainly visible sign containing the words "school bus" in letters at least eight (8) inches in height. When a school bus is operated on a highway for purposes other than transporting pupils to and from school or for school functions, all markings identifying it as a school bus shall be concealed.

Section 280. Section 75-7003. School bus driver qualifications. Any driver of a school bus shall be qualified to drive such school bus by compliance with the following requirements: (1) he is not less than twenty-one (21) years

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of age;

(2) he is of good moral character;

(3) he is the holder of a chauffeur's license;

(4) he has filed with the district a satisfactory medical examination report signed by a licensed physician of the state of Montana on a blank provided by the superintendent of public instruction;

(5) he has completed a standard first-aid course and holds a valid standard first-aid certificate from an authorized instructor. The issuance of such certificate shall be governed by rules and regulations established by the superintendent of public instruction, provided that such rules may suspend this requirement for a reasonable period of time where there has been an inadequate opportunity for securing the first-aid course and certificate;

(6) he has complied with any other qualifications established by the board of education; and

(7) he has filed with the county superintendent a certificate from the trustees of the district for which the school bus is to be driven certifying compliance with the several driver qualifications enumerated in this section.

Section 281. Section 75-7004. Duties of board of education. The board of education, by and with the advice of the chief of the Montana highway patrol and the superintendent of public instruction, shall adopt and enforce policies, not inconsistent with the motor vehicle code, to provide uniform standards and regulations for the design, construction and operation of school buses in the state of Montana. Such policies shall: (1) prescribe minimum standards for the design and construction of school buses not inconsistent with:

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(a) the minimum standards adopted by the national commission on safety education; or

(b) the minimum standards adopted by the national highway safety bureau.

(2) prescribe standards and specifications for the lighting equipment and special warning devices to be carried by school buses in conformity with:

(a) the current specifications approved by the society of automobile engineers;

(b) the motor vehicle code; and

(c) the requirement that all school buses shall have an alternately flashing pre-warning lighting system of four amber signal lamps to be used while preparing to stop and an alternately flashing warning lighting system of four red signal lamps to be used while stopped in accordance with section 32-21-132, R.C.M., 1947.

(3) establish any other driver qualifications that may be deemed necessary in addition to the qualifications required in section 75-7003.

(4) prescribe criteria for the establishment of transportation service areas for school bus purposes by the county transportation committee which shall allow for the establishment of such areas without regard to the district boundary lines within the county.

(5) prescribe any other criteria for the determination of the residence of a pupil that may be deemed necessary in addition to the criteria established in section 75-7016.

(6) prescribe any other policies for the operation of school buses which are not inconsistent with the motor vehicle code, the minimum standards adopted by the national commission

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on safety education for school bus operation, the highway safety standards, and the transportation provisions of this title.

(7) prescribe standards for the measurement of the child seating capacity of school buses, to be known as the "rated capacity."

The board of education shall promulgate a schedule that establishes the basis for increasing the individual transportation rates due to isolation as provided in subsection (3) of section 75-7019. The board of education also shall prescribe any other policy necessary for the proper administration and operation of individual transportation programs that are not inconsistent with the transportation provisions of this title.

Section 282. Section 75-7005. Duties of the superintendent of public instruction. In order to have a uniform and equal provision of transportation by all districts in the state of Montana, the superintendent of public instruction shall: (1) prescribe rules, regulations, and forms for the implementation and administration of the transportation policies adopted by the board of education;

(2) prescribe rules and regulations for the approval of school bus routing by the county transportation committee;

(3) prescribe the format of the contract for individual transportation and supply each county superintendent with a sufficient number of such contracts;

(4) prescribe rules and regulations for the approval of individual transportation contracts, including the increases of the schedule rates due to isolation under the policy of the board of education;

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(5) approve, disapprove, or adjust all school bus routing submitted by the county superintendent;

(6) approve, disapprove, or adjust all individual transportation contracts submitted by the county superintendent;

(7) prescribe rules and regulations for the consideration of controversies appealed to him, and rule on such controversies; and

(8) disburse the state transportation reimbursement in accordance with the provisions of law and the transportation policies of the board of education.

Section 283. Section 75-7006. Penalty for violating law, board of education policies or superintendent of public instruction rules and regulations. Every district, its trustees and employees, and every person under a transportation contract with a district shall be subject to the policies prescribed by the board of education and the rules and regulations prescribed by the superintendent of public instruction. Any trustee or district employee who violates any transportation law or board of education transportation policy or who fails to include as a condition in any district transportation contract the obligation to comply with such law or policies shall be guilty of misconduct and subject to removal from office or employment by proceedings instituted in any court of competent jurisdiction by the county attorney of the county where the district is located. Any person operating a bus under contract with a district who fails to comply with the transportation law or the board of education transportation policies shall be guilty of breach of contract and the contract shall be cancelled after notice and hearing by the trustees of such district.

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Section 284. Section 75-7007. Duties of school bus driver and driver of any vehicle when school bus is stopped or at railroad crossing, and penalty for failure to comply. When outside the limits of an incorporated city or town, the driver of a vehicle, when approaching the front or rear of a school bus that has come to a stop on a public road and has its alternately flashing warning lighting system of four red signal lamps in operation and is receiving or discharging school children, shall stop his vehicle not less than ten (10) feet from such school bus and keep said vehicle stationary until the children have entered the school bus or have alighted and reached the side of the highway on which they live, and the school bus has resumed motion, or the driver has signaled traffic to proceed.

The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway, or when upon a controlled access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

It shall be unlawful to operate any flashing prewarning or warning signal light on any school bus except when the school bus is preparing to stop or is stopped for the purpose of permitting school children to board or alight from the bus.

The driver of any school bus, before crossing any track or tracks of a railroad at grade, shall stop the school bus within fifty (50) feet, but not less than fifteen (15) feet, from the nearest rail of such track and while stopped shall open the door and shall listen and look in both directions along such track for any approaching train, and for signals

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indicating the approach of a train, and shall not proceed until he can do so safely. After stopping and proceeding when it is safe to do so, the driver of any school bus shall cross only in a gear of the vehicle that will not necessitate the changing of gears while traversing the crossing, and the driver shall not shift gears while crossing the track or tracks. No stop need be made at any crossing where a police officer or a traffic-control signal directs traffic to proceed.

Any person who shall fail to comply with or who shall violate the provisions of this section shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than ten dollars ($10) nor more than one hundred dollars ($100), or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Section 285. Section 75-7008. Duty of trustees to provide transportation, types of transportation, and bus riding time limitation. The trustees of any district may furnish transportation to an eligible transportee who attends a school of the district or has been granted permission to attend a school outside of the district. Whenever the trustees of a district provide transportation for any eligible transportee, the trustees must provide all eligible transportees of the district with transportation. The trustees shall furnish transportation when directed to do so by the county transportation committee and such direction is upheld by the superintendent of public instruction. The parent or guardian of an eligible transportee may, at his discretion, provide transportation or arrange for transportation for his child

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at his own expense to any district willing to accept his child.

The type of transportation provided by a district may be: (1) by a school bus; or

(2) by such individual transportation as:

(a) paying the parent or guardian for individually transporting the pupil;

(b) paying board and room reimbursements;

(c) providing supervised correspondence study; or

(d) providing supervised home study.

When the parent or guardian of an elementary pupil consents to a trip of over one (1) hour, the trustees may require such eligible transportee to ride a school bus for more than one (1) hour per trip.

Section 286. Section 75-7009. Discretionary provision of transportation and payment for this transportation. The trustees of any district also may provide school bus transportation to any pupil of a public school who is not an eligible transportee of the district under the following conditions: (1) On a school bus conveying eligible transportees when the ineligible transportee will not displace an eligible transportee from such school bus because of the lack of seating capacity.

(2) On a school bus operated by the district for the sole purpose of providing transportation for ineligible transportees. Such school bus shall service those children living the greatest distance from the school to be attended.

(3) On a school bus operated for the purpose of relieving congestion in a school building, or to avoid the necessity of erecting a new building, or for any other reasons of

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economy or convenience.

When the trustees of a district provide school bus transportation to an ineligible transportee under the conditions of subsections (1) or (2) above, the district may charge each ineligible transportee his proportionate share, as determined by the trustees, of the cost of operating such school bus. Money realized from such payments shall be deposited to the credit of the transportation fund.

Section 287. Section 75-7010. Provision of transportation for nonpublic school children. Any child attending a nonpublic school may ride a school bus when a permit to ride such school bus is secured from the operating district by the parent or guardian of such nonpublic school child, and when there is seating capacity available on such school bus. When a nonpublic school child rides a school bus, the operating district shall charge such child his proportionate share, as determined by the trustees, of the cost of operating such school bus. Money realized from such payments shall be deposited to the credit of the transportation fund.

Section 288. Section 75-7011. Power of trustees to purchase and operate bus, contract for bus services, operate a two-way radio, and insure either type of bus. The trustees of any district shall have the power to: (1) purchase or rent a school bus;

(2) purchase or rent a two-way radio for a school bus when the trustees authorize a two-way radio as standard equipment in a school bus because such bus is operated where weather and road conditions may constitute a hazard to the safety of the school pupil passengers;

(3) provide for the operation, maintenance and insurance

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of a school bus or a two-way radio owned or rented by the district; or

(4) contract with a private party for the transportation of eligible transportees and such contract shall not exceed the term of five (5) years.

When the trustees authorize a two-way radio as standard equipment on a school bus, the two-way radio may be operated on the same frequency as that used by the Montana highway patrol and the sheriff of the county when their permission and the permission of the federal communications commission is secured. If permission is not secured from these agencies, the frequency assigned by the federal communications commission shall be used for the operation of the two-way radios.

When the trustees contract with any private party to provide transportation to eligible transportees, the private party shall comply in every respect with the regulations of the board of education for the standards of equipment, operation and safety of the school bus, and qualifications of the driver. The trustees may, in contracting with private parties, require added safeguards by supplementing the board of education policies in the contract with additional requirements for bus specifications, age of drivers, liability insurance, operating speed or any other contractual condition deemed necessary by the trustees.

Whenever a bus is owned and operated by a district or the bus is operated by a private party under a contract but no condition of such contract requires the private party to carry liability insurance, the trustees shall carry automobile bodily injury and liability insurance in an amount not less than seven thousand five hundred dollars ($7,500) per person

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and fifty thousand dollars ($50,000) for each accident for each bus operated by or under contract with the district.

When a district purchases a school bus, the trustees may purchase such school bus under an installment contract which will be completely executed within three years from the date of the purchase. The trustees also may purchase a school bus without advertising for bids under the provisions of section 75-6808.

Section 289. Section 75-7012. Contracts for transportation. Any school bus transportation by a private party or individual transportation that is furnished by a district shall be under contract and no district, county or state money shall be paid for such transportation services to any person or firm who does not hold a legal contract with the district. Transportation contracts for the ensuing year shall be completed by the fourth Monday of June except when an eligible transportee establishes residence in the district after the fourth Monday of June and a contingency amount is included in the regular transportation budget or an emergency transportation budget is adopted. (1) Transportation contracts between a district and a private party for the provision of school bus transportation shall be subject to the following requirements:

(a) The contract shall be completed in quadruplicate and, upon completion, one copy shall be for the county superintendent, one copy for the private party, one copy for the superintendent of public instruction and one copy shall be retained by the district.

(b) The contract terms shall require conformance to the transportation law, policies of the board of education and

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rules and regulations of the superintendent of public instruction; and

(c) The contract shall be signed by the chairman of the trustees and the private party.

(2) A transportation contract between a parent or guardian of an eligible transportee and a district for the provision of individual transportation shall be subject to the following requirements:

(a) It shall be completed in quadruplicate and, upon approval, one copy shall be for the parent or guardian, one copy for the district, one copy for the county superintendent, and one copy for the superintendent of public instruction;

(b) It shall be completed on forms promulgated by the superintendent of public instruction;

(c) The parent or guardian shall sign an affidavit attesting to the place of residence of his child or children; and

(d) It shall be signed by the chairman of the trustees and the parent or guardian of the eligible transportees.

Section 290. Section 75-7013. Bid letting for contract bus and payments under any transportation contract. Before any contract with a private party for the provision of school bus transportation is awarded, the trustees shall secure bids by publishing at least three (3) calls for bids in a newspaper of the county that will give notice to the largest number of people of the district or in the official newspaper of the county during a period of twenty-one (21) days. The trustees shall let the contract to the lowest responsible bidder and the trustees shall have the right to reject any and all bids. The provisions of this section for awarding

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a contract for school bus transportation shall be subject to the provisions of section 75-6808.

The trustees shall not expend any monies of the district for school bus transportation by a private party or for individual transportation unless: (1) a contract for such transportation services has been completed; and

(2) such contracted services for school bus transportation by a private party have been actually furnished except that the failure to perform may be excused by the trustees for reasons not under the control of the contractor; or

(3) such contracted services for individual transportation have been actually furnished as conformed by the actual attendance of school by the eligible transportees and recorded on the school attendance records or, in the case of a supervised correspondence course or supervised home study, as confirmed by the trustees; except that the contracted services furnished one way on any school day shall be reimbursed at one-half (1/2) the daily contract amount.

Section 291. Section 75-7014. County transportation committee membership. To coordinate the orderly provision of a uniform transportation program within a county under the transportation law, board of education transportation policies, and the transportation rules and regulations of the superintendent of public instruction, there shall be a county transportation committee created in each county of the state of Montana. The membership of the county transportation committee shall be: (1) the county superintendent;

(2) the chairman of the board of county commissioners or a member of such board designated by the chairman;

(3) a trustee or district employee designated by the

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trustees of each high school district of the county;

(4) one representative from each high school district of the county who is a trustee of an elementary district encompassed within the high school district and who has been selected at a meeting of the trustees of such elementary districts; and

(5) a representative of a district of another county when the transportation services of such a district are affected by the actions of the transportation committee, but such a representative shall have a voice only in matters affecting transportation within such district or by such district.

The county transportation committee shall have at least five members and if this minimum membership cannot be realized in the manner prescribed in subsections (1), (2), (3) and (4) above, the county superintendent shall appoint a sufficient number of members to satisfy the minimum membership requirement.

The county superintendent shall be the chairman of the county transportation committee and a quorum shall consist of a majority of the membership. The county transportation committee shall meet on the call of the chairman or any three members of such committee.

Section 292. Section 75-7015. Duties of the county transportation committee. It shall be the duty of the county transportation committee to: (1) establish the transportation service areas within the county, without regard to district boundary lines, which will define the geographic area of responsibility for school bus transportation for each district that operates a school bus transportation program;

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(2) approve, disapprove, or adjust the school bus routing submitted by the trustees of each district in conformity with the transportation service areas established in subsection (1);

(3) approve, disapprove, or adjust applications, approved by the trustees, for increased reimbursements for individual transportation due to isolated conditions of the eligible transportee's residence; and

(4) conduct hearings to establish the facts of transportation controversies which have been appealed from the decision of the trustees, and act on such appeals on the basis of the facts established at such hearing.

After a fact-finding hearing and decision on a transportation controversy, the trustees or a patron of the district may appeal such decision to the superintendent of public instruction who shall render a decision on the basis of the facts established at the county transportation committee hearing.

The trustees of any district which objects to a particular school bus route or transportation service areas to which it has been assigned may request a transfer to another school bus route or transportation service area. The county transportation committee may transfer the territory of such district to an adjacent district's transportation service area or approved school bus route with the consent of such adjacent district. When the qualified electors of the district object to the decision of the county transportation committee and the adjacent district is willing to provide school bus service, twenty per cent (20%) of the qualified electors, as prescribed in section 75-6410, may petition the trustees to conduct an

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election on the proposition that the territory of such district be transferred for school bus transportation purposes to such consenting, adjacent district. When a satisfactory petition is presented to the trustees, the trustees shall call an election in accordance with section 75-6406 for the next ensuing regular school election day. Such election shall be conducted in accordance with the school election laws. If a majority of those voting at such election approve the transfer, it shall become effective on the first day of July of the ensuing school fiscal year.

Unless a transfer of a district from one transportation service area or approved school bus route to another such area or route is approved by the county transportation committee and the superintendent of public instruction, the state transportation reimbursement shall be limited to the reimbursement amount for school bus transportation to the nearest operating public elementary school or public high school, whichever is appropriate for the affected pupils.

Section 293. Section 75-7016. Determining residence. When the residence of an eligible transportee is a matter of controversy and is an issue before a board of trustees, a county transportation committee, or the superintendent of public instruction, such residence shall be established on the basis of the general state residence law as provided in section 83-303, R.C.M., 1947. Where any district or county is determined to be responsible for paying tuition for any pupil in accordance with sections 74-6313, 75-6314, and 75-6316, the residence of the pupil for tuition purposes shall be the residence of such pupil for transportation purposes.

Section 294. Section 75-7017. Determination of mileage

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distances. When the mileage district that transportation services are to be provided is a matter of controversy and is an issue before a board of trustees, a county transportation committee or the superintendent of public instruction, such mileage shall be established on the following basis. (1) The distance in mileage shall be measured by a vehicle equipped with an accurate odometer;

(2) A representative of the applicable district and a parent or guardian of the child to be transported shall be present when the distance is measured;

(3) The measurement shall begin six (6) yards from the family home and ends six (6) yards from the entrance of the school grounds closest to the route; and

(4) The route traversed for the measurement shall be the route designated by the trustees, except that such route shall be reasonably passable during the entire school fiscal year by the vehicle that provides the child's transportation. In determining reasonable passage, a route shall not be disqualified because it is impassable during temporary, extreme weather conditions such as rains, snow, or floods.

Section 295. Section 75-7018. Schedule of maximum reimbursement by bus mileage rates. The following bus mileage rates for school bus transportation constitute the maximum reimbursement to districts for school bus transportation from state and county sources of transportation revenue under the provisions of sections 75-7022 and 75-7023. These rates shall not limit the amount which a district may budget in its transportation fund budget in order to provide for the estimated and necessary cost of school bus transportation during the ensuing school fiscal year. The operation of any vehicle

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reimbursed under the rate provisions of this schedule shall be a school bus, as defined by this title, driven by a qualified driver on a bus route approved by the county transportation committee and the superintendent of public instruction. (1) The rate per bus mile traveled shall be determined in accordance with the following schedule when the number of eligible transportees boarding such school bus on an approved route is not less than seventy-five per cent (75%) of its rated capacity:

(a) twelve cents ($.12) per bus mile for a school bus with a rated capacity of six (6) children or less:

(b) fifteen cents ($.15) per bus mile for a school bus with a rated capacity of not less than seven (7) but not more than eleven (11) children;

(c) twenty cents ($.20) per bus mile for a school bus with a rated capacity of not less than twelve (12) but not more than thirty (30) children; and

(d) when the rated capacity is more than thirty (30) children, an additional one-half cent ($.005) per bus mile for each additional child in the rated capacity in excess of thirty (30) shall be added to a base rate of twenty cents ($.20) per bus mile.

(2) When the number of eligible transportees boarding a school bus on an approved route is less than seventy-five per cent (75%) of its rated capacity, the rate per bus mile traveled shall be computed as follows:

(a) determine the number of eligible transportees boarding the school bus on such route;

(b) multiply the number determined in subsection (a) by twenty-five per cent (25%) and round-off to the nearest

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whole number;

(c) add the amount calculated in subsection (b) to the number determined in subsection (a) to determine the adjusted rated capacity for the bus; and

(d) use the adjusted rated capacity determined in subsection (c) as the rated capacity of such bus to determine the rate per bus mile traveled from the rate schedule in subsection (1) above.

The rated capacity shall be the number of riding positions of a school bus as determined under the policy adopted by the board of education.

Section 296. Section 75-7019. Schedule of maximum reimbursement for individual transportation including provisions for isolation, room and board, and supervised study programs. The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state and county sources of transportation revenue under the provisions of sections 75-7022 and 75-7023. These rates also shall constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall reimburse the parent or guardian on the basis of the following schedule: (1) When the parent or guardian provides the transportation conveyance, the following per diem rates shall be used to determine the total reimbursable amount for all eligible transportees residing in one household, including both elementary and high school pupils; except that eligible transportees shall be considered as coming from separate

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households when such eligible transportees are required by the trustees to attend schools in entirely separate communities and cannot be transported by the same conveyance or cared for in the same community. When the distance from the eligible transportee's residence to his assigned school is:

(a) not less than three (3) miles but less than five (5) miles, the rate shall be thirty cents ($.30) for one (1) eligible transportee and twelve cents ($.12) for each additional eligible transportee but shall not exceed sixty-six cents ($.66) for all the eligible transportees of one household;

(b) not less than five (5) miles but less than seven (7) miles, the rate shall be thirty-six cents ($.36) for one (1) eligible transportee and twelve cents ($.12) for each additional eligible transportee but shall not exceed eighty-four cents ($.84) for all the eligible transportees of one household.

(c) not less than seven (7) miles but less than twelve (12) miles, the rate shall be forty-eight cents ($.48) for one (1) eligible transportee and twelve cents ($.12) for each additional eligible transportee but shall not exceed one dollar and eight cents ($1.08) for all the eligible transportees of one household; or

(d) twelve (12) or more miles, the rate shall be sixty cents ($.60) for one (1) eligible transportee and twelve cents ($.12) for each additional eligible transportee but shall not exceed one dollar and twenty cents ($1.20) for all the eligible transportees of one household.

(2) When the parent or guardian provides the transportation conveyance from the eligible transportee's residence

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to an approved route of the school bus designated by the trustees for the transportation of such eligible transportee, the per diem rates prescribed in subsection (1) shall be used to determine the reimbursable amount for such transportation on the basis of the distance from the residence to such bus route. When the distance from the eligible transportee's residence to the approved bus route is not less than one and one-half (1 1/2) miles but less than three (3) miles, the reimbursement rate shall be one-half (1/2) the rate prescribed in subsection (1)(a) above. No transportation reimbursement shall be paid to a parent or guardian when the distance is less than one and one-half (1 1/2) miles.

(3) Where, due to excessive distances, impassable roads or other special circumstances of isolation, the rates prescribed in subsections (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, his parent or guardian may request an increase in the reimbursement rate. Such a request for increased rates due to isolation shall be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances which exist to justify the increase. Before any increase rate due to isolation can be paid to the requesting parent or guardian, such rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the county transportation committee and the superintendent of public instruction, the trustees shall pay such increased rate due to

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isolation. The board of education shall promulgate a schedule that allows varying percentage increases of the per-day individual transportation rates prescribed in subsections (1) and (2) in relation to the degree of isolation, except that such increases shall not exceed one hundred per cent (100%).

(4) When the isolated conditions of the household where an eligible transportee resides require such eligible transportee to live away from the household in order to attend school, he shall be eligible for the room and board reimbursement. Approval to receive the room and board reimbursement shall be obtained in the same manner prescribed in subsection (3) above. The per diem rate for room and board shall be one dollar and fifty cents ($1.50) for one eligible transportee, sixty cents ($.60) for a second eligible transportee of the same household and thirty cents ($.30) for each additional eligible transportee of the same household.

(5) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate shall be the cost of such study; provided that the course of instruction is approved by the trustees and supervised by the district.

(6) The schedules provided in this section shall not be altered by any authority other than the legislative assembly of the state of Montana, except as provided in subsection (3).

Section 297. Section 75-7020. Budgeting for transportation and transmittal of transportation contracts. The trustees of any district furnishing transportation to pupils who are residents of such district shall have the authority and it shall be their duty to provide a transportation fund budget that is adequate to finance such district's transportation

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contractual obligations and any other transportation expenditures necessary for the conduct of its transportation program. The transportation fund budget shall include: (1) an adequate amount to finance the maintenance and operation of district owned and operated school buses;

(2) the annual contracted amount for the maintenance and operation of school buses by a private party;

(3) the annual contracted amount for individual transportation, including any increased amount due to isolation, which shall not exceed the schedule amounts prescribed in section 75-7019;

(4) any amount necessary for the purchase, rental, or insurance of school buses; and

(5) any other amount necessary to finance the administration, operation or maintenance of the transportation program of the district, as determined by the trustees.

The trustees may include a contingency amount in the transportation fund budget for the purpose of enabling the district to fulfill any obligation to provide transportation in accordance with the transportation law for any pupils not residing in the district at the time of the adoption of the preliminary budget and who subsequently became residents of such district during the school fiscal year or pupils who have become eligible transportees since the adoption of the preliminary budget because his legal residence has been changed. The budgeted contingency amount shall not exceed ten per cent (10%) of the transportation schedule amount as calculated under the provisions of sections 75-7018 and 75-7019 for all transportation services authorized by such schedule and provided by the district; unless ten per cent (10%) of such transportation

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schedule amount shall be less than one hundred dollars ($100), in which case one hundred dollars ($100) shall be the maximum limitation for such budgeted contingency amount.

As provided in section 75-6724 an emergency transportation fund budget may be adopted subject to the provisions of the emergency budgeting law.

The transportation fund budgeted expenditures appropriated by the trustees shall be reported on the regular budget form prescribed by the superintendent of public instruction in accordance with section 75-6704 and the adoption of the transportation fund budget shall be completed in accordance with the school budgeting laws. When the adopted preliminary budget is sent to the county superintendent, the trustees also shall send copies of all completed transportation contracts for school bus transportation and individual transportation to the county superintendent. Such contracts shall substantiate all contracted transportation services incorporated in the preliminary budget; and, after the county superintendent has utilized the contracts for such purpose but before the fourth Monday of July, he shall send all the transportation contracts received by him to the superintendent of public instruction. When the county superintendent determines a deviation between the preliminary transportation fund budget amount for contracted transportation services and the contracted amount for such services, he shall immediately call the deviation to the attention of the appropriate trustees and shall allow the trustees to change the preliminary budgeted amount to compensate for such deviation.

Section 298. Section 75-7021. Computation of revenues and net tax levy requirements for the transportation fund

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budget. Before the fourth Monday of July and in accordance with section 75-6712, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis: (1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in sections 75-7018 and 75-7019 shall be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district. To determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such district; plus

(b) the total of all individual transportation per diem reimbursement rates for such district as determined from the contracts submitted by the district multiplied by the number of pupil instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in section 75-7020, except if such amount exceeds ten per cent (10%) of the total of subsections (a), (b), and (c) or one hundred dollars ($100) whichever is larger, the contingency amount on the preliminary budget shall be reduced to such limitation amount and used in

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this determination of the schedule amount.

(2) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, shall be divided by three (3) and the resulting one-third (1/3) amount shall be used to determine the available state and county revenue to be budgeted on the following basis:

(a) the resulting one-third (1/3) amount shall be the budgeted state transportation reimbursement except that the state transportation reimbursement for the transportation of special education pupils under the provisions of section 75-7815 shall be two-thirds of the schedule amount attributed to the transportation of special education pupils;

(b) the resulting one-third (1/3) amount except as provided for joint elementary districts in subsection (2)(e) shall be the budgeted county transportation reimbursement for elementary districts and shall be financed by the basic county tax under the provisions of section 75-6914;

(c) the resulting one-third (1/3) amount multiplied by two shall be the budgeted county transportation reimbursement amount for high school districts financed under the provisions of subsection (5) of this section except as provided for joint high school districts in subsection (2)(e) and except that the county transportation reimbursement for the transportation of special education pupils under the provisions of section 75-7815 shall be one-third (1/3) of the schedule amount attributed to the transportation of special education pupils;

(d) when the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district

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obligation for financing to zero, any remaining amount of such district revenue and cash reappropriated shall be used to reduce the county financing obligation in subsections (b) or (c) and, if such county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (a); and

(e) the county revenue requirement for a joint district, after the application of any district monies under subsection (2)(d) above, shall be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each such county.

(3) The total of the monies available for the reduction of property tax on the district for the transportation fund shall be determined by totaling:

(a) anticipated federal monies received under the provisions of Title I of Public Law 81-874 or other anticipated federal monies received in lieu of such federal act; plus

(b) anticipated payments from other districts for providing school bus transportation services for such district; plus

(c) anticipated payments from a parent or guardian for providing school bus transportation services for his child; plus

(d) anticipated interest to be earned by the investment of transportation fund cash in accordance with the provisions of subsection (4) of section 75-6806; plus

(e) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year which may be used to finance the transportation fund; plus

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(f) any cash available for reappropriation as determined by subtracting the amount of the end-of-the-year cash balance earmarked as the transportation fund cash reserve for the ensuing school fiscal year by the trustees from the end-of-the-year cash balance in the transportation fund. Such cash reserve shall not be more than twenty per cent (20%) of the final transportation fund budget for the ensuing school fiscal year and shall be for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund shall be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount and, for an elementary district, adding such difference to the district obligation to finance one-third (1/3) of the schedule amount as determined in subsection (2); and

(b) subtracting the amount of monies available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a), above.

(5) The county levy requirement for the financing of the county transportation reimbursement to high school districts shall be computed by adding all such requirements for all the high school districts of the county, including the county's obligation for reimbursements in joint high school districts.

(6) The transportation fund levy requirements determined in subsection (4) for each district and in subsection (5) for the county shall be reported to the county commissioners on

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the second Monday of August by the county superintendent as the transportation fund levy requirements for the district and for the county, and such levies shall be made by the county commissioners in accordance with section 75-6717.

Section 299. Section 75-7022. State transportation reimbursement. Any district providing school bus transportation or individual transportation in accordance with the transportation law, board of education transportation policy, and superintendent of public instruction transportation rules and regulations shall receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of sections 75-7018 and 75-7019. The state transportation reimbursement shall not exceed one third (1/3) of the reimbursement amounts established in such sections or one-third (1/3) of the district's transportation fund budget, whichever is smaller, and shall be computed on the basis of the number of days the transportation services were actually rendered. In determining the amount of the state transportation reimbursement, no amount claimed by a district shall be considered for reimbursement unless such amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

Requests for the state transportation reimbursement shall be made by each district semiannually during the school fiscal year on the claim forms and procedure promulgated by the superintendent of public instruction. The claims for state transportation reimbursements shall be routed by the district to the county superintendent, who after reviewing such claims shall send them to the superintendent of public instruction. The superintendent of public instruction shall establish the

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validity and accuracy of the claims for the state transportation reimbursements by determining their compliance with the transportation law, board of education transportation policy, and the transportation rules and regulations of the superintendent of public instruction. After making any necessary adjustments to such claims, he shall cause their payment by ordering a disbursement from the state monies appropriated by the legislative assembly of the state of Montana for the state transportation reimbursement. Such payment of all the district's claims within one county shall be made to the county treasurer of such county and the county superintendent shall apportion such payment in accordance with the apportionment order supplied by the superintendent of public instruction.

Section 300. Section 75-7023. County transportation reimbursement. The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with the transportation law, board of education transportation policy, and the transportation rules and regulations of the superintendent of public instruction shall be the same as the state transportation reimbursement payment except that: (1) the high school apportionment of the county transportation reimbursement shall be twice the state transportation reimbursement payment;

(2) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of subsection (2)(d) of section 75-7021, the annual apportionment shall be limited to such budget amount;

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(3) when a district receives a state transportation reimbursement of two-thirds (2/3) the schedule amount for the transportation of special education pupils, the apportionment of the high school county transportation reimbursement shall be adjusted to provide only a one-third (1/3) high school county reimbursement of the transportation of special education pupils; and

(4) when the county transportation reimbursement for a school bus has been prorated between two (2) or more counties because such school bus is conveying pupils of more than one (1) district located in such counties, the apportionment of the county transportation reimbursement shall be adjusted to pay the amount computed under such proration.

The county superintendent shall apportion the elementary county transportation reimbursement from the proceeds of the county basic levy and the high school county transportation reimbursement from the proceeds of the county tax for high school transportation. The county superintendent shall order the county treasurer to make such apportionments in accordance with subsection (2) of section 75-6805 and after the receipt of the semiannual state transportation reimbursement payments.

Section 301. Section 75-7024. Bus depreciation reserve. The trustees of any district owning a school bus or a two-way radio used for transportation purposes may establish a bus depreciation reserve fund for the purpose of replacing such bus or radio. When a bus depreciation reserve fund is established, the trustees may include in the district's budget, in accordance with the school budgeting provisions of this title, an amount each year that does not exceed twenty per cent (20%) of the original cost of a school bus or a two-way

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radio for transportation purposes. The annual revenue requirement for each district's bus depreciation reserve fund, determined within the limitations of this section, shall be reported by the county superintendent to the county commissioners on the second Monday of August as the bus depreciation reserve fund levy requirement for such district, and a levy shall be made by the county commissioners in accordance with section 75-6717.

Any expenditure of bus depreciation reserve fund monies shall be within the limitations of the district's final bus depreciation reserve fund budget and the school financial administration provisions of this title and shall be made only for the purchase of buses or radios to replace the buses or radios for which the bus depreciation reserve fund was created.

Whenever the trustees of a district maintaining a bus depreciation reserve fund deem it to be within the best interests of the district to transfer any portion or all of the bus depreciation reserve cash balance to any other fund maintained by the district, it shall submit such proposition to the electors of the district. The electors qualified to vote at the election shall qualify under section 75-6410, and the election shall be called and conducted in the manner prescribed by this title for school elections. If a majority of those electors voting at the election approve the proposed transfer from the bus depreciation reserve fund, the transfer shall be approved and the trustees shall immediately order the county treasurer to make the approved transfer.

Section 302. Section 75-7101. Applicable laws for school district bonding. The school district bonding provisions of

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this title and all applicable laws of the state shall govern: (1) the issuance, refunding and sale of school district bonds; (2) the levying of taxes for payment of the principal and interest on school district bonds; and (3) the redemption of bonds. Should there be a conflict between the provisions of this title and the provisions of any other law of the state, the provisions of this title shall govern.

Section 303. Section 75-7102. Definition of school district for bonding purposes. For the purposes of indebting an elementary district or a high school district by the issuance of bonds under the provisions of this title, the term "school district" shall mean any elementary district or high school district except the following types of high schools recognized as high school districts without a bonding authority in section 75-6501: (1) High schools operated by an elementary district in a county that has not been divided into high school districts; or

(2) County high schools located in a county that has not been divided into high school districts by the county high school boundary commission.

Section 304. Section 75-7103. Trustees may issue bonds for certain purposes. The trustees of a school district may issue and negotiate bonds on the credit of the school district for the purpose of: (1) building, altering, repairing, buying, furnishing, equipping a school, teacherage, dormitory, gymnasium, or other building for school purposes in the school district;

(2) purchasing the necessary lands for a school, teacherage, dormitory, gymnasium, or other building for

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school purposes in the school district;

(3) securing a water supply for a school, teacherage, dormitory, gymnasium, or other building for school purposes in the school district;

(4) buying a school bus;

(5) providing the necessary money to redeem matured bonds, maturing bonds, or coupons appurtenant to bonds when there is not sufficient money to redeem them;

(6) providing the necessary money to redeem optional or redeemable bonds when it is for the best interest of the school district to issue refunding bonds; or

(7) funding a judgment against the district.

Any money realized from the sale of any bonds issued on the credit of a high school district shall not be used for any of the above purposes in an elementary school district, and such money may be used for any of the above purposes for a junior high school but only to the extent that the ninth grade of the high school is served thereby.

Section 305. Section 75-7104. Limitations on amount of bond issue. The maximum amount for which each school district shall become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is five per cent (5%) of the assessed value of the taxable property therein as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of such indebtedness. The words "value of the taxable property therein" as used herein shall be given the same meaning and construction and are used in the same sense as in section 6 of article XIII of the state constitution.

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All bonds issued in excess of such amount shall be null and void.

When the total indebtedness of a school district has reached the five per cent (5%) limitation prescribed in this section, such school district shall have the power and authority to pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this title.

Whenever bonds are issued for the purpose of refunding bonds, any monies to the credit of the debt service fund for the payment of the bonds to be refunded shall be applied towards the payment of such bonds and the refunding bond issue shall be decreased accordingly.

Section 306. Section 75-7105. Definition of forms of bonds. As used in this title, unless the context clearly indicates otherwise:

"Amortization bonds" means the form of bonds on which a part of the principal must be paid each time interest becomes payable. The part payment of principal increases at each installment in the same amount that the interest decreases. The combined interest and principal due on each due date remains the same until the bonds are paid. The final payment may vary from prior payments in the amount resulting from disregarding fractional cents in prior payments.

"Serial bonds" means the form of bonds which are payable in annual installments and on which the amount to be redeemed each year is determined by dividing the total amount of the bonds by the term of the bond issue. However, the first or the first and second installments may vary from the

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others to the extent resulting from fixing the amounts of each bond of the other installments at one hundred dollars ($100), at five hundred dollars ($500) or at some multiple thereof.

Section 307. Section 75-7106. Form of bond to be issued. All bonds issued by a school district shall be amortization bonds unless serial bonds, in the judgment of the trustees, will be more advantageous to the school district and can be sold at a comparatively reasonable rate of interest.

Section 308. Section 75-7107. Limitation of term and interest on bonds, and timing for redemption of bonds. School district bonds shall not be issued for a term longer then twenty (20) years except that bonds issued to refund or redeem outstanding bonds shall not be issued for a term longer than ten (10) years unless the unexpired term of the bonds to be refunded or redeemed is in excess of ten (10) years in which case the refunding or redeeming bonds may be issued for such unexpired term. All bonds issued for a longer term than five (5) years shall be redeemable at the option of the school district five (5) years from the date of issue and on any interest payment due date thereafter before maturity and shall be so stated on the face of the bonds. The interest shall not exceed six per cent (6%) per annum and shall be payable semiannually.

Section 309. Section 75-7108. Dates of issue and payments. In order that the dates of payment of installments on school district bond issues may coincide as nearly as possibly with the largest monthly tax collections, all school district bonds shall preferably bear a date of some

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day in June or December. For this reason, the bonds may be dated back not more than five (5) months from the time of the actual sale but no interest shall be charged on these bonds before they have been delivered to the purchaser and payment has been made by the purchaser. Interest accrued on such bonds according to their terms at the time of delivery shall either be refunded by the purchaser or deducted from the first interest payments. The failure to date such bonds in June or December shall not affect their validity.

Section 310. Section 75-7109. Refunding bonds may be issued without an election. Bonds of a school district issued for the purpose of providing the money needed to redeem outstanding bonds may be issued without submitting the proposition to the electorate at an election. In order to issue bonds for such purpose, the trustees, at a regular meeting or a duly called special meeting, shall adopt a resolution setting forth: (1) the facts regarding the outstanding bonds that are to be redeemed;

(2) the reasons for issuing new bonds; and

(3) the term and details of the new bond issue.

After the adoption of such resolution, the trustees shall give notice of the sale of such new bonds in the same manner that notice is required to be given for the sale of bonds authorized at a school election. Such new bonds shall be sold in open competitive bidding, by written bids, or by sealed bids. Bonds shall not be refunded by the issuance of new bonds unless the rate of interest offered on the new bonds is at least one-half (1/2) of one per cent (1%) per annum less than the rate of interest in the bonds to be refunded or redeemed.

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Section 311. Section 75-7110. Election required to authorize the issuance of school district bonds and the methods of introduction. A school district shall not issue bonds for any purpose other than that provided in section 75-7109 unless the issuance of bonds has been authorized by the qualified electors of the school district at an election called for the purpose of considering a proposition to issue such bonds. A school district bond election shall be called by a resolution as prescribed under the provisions of section 75-6406 when: (1) the trustees, of their own volition, adopt a resolution to that effect; or

(2) the trustees have received a petition which asks that an election be held to consider a bond proposition and which has been validated under the provisions of section 75-7114.

Section 312. Section 75-7111. Additional requirements for trustees resolution calling bond election. In addition to the requirements for calling an election that are prescribed in sections 75-6406 and 75-6408, the trustees' resolution calling a school district bond election shall: (1) fix the exact amount of the bonds proposed to be issued, which may be more or less than the amounts estimated in a petition;

(2) fix the maximum number of years in which the proposed bonds would be paid; and

(3) in the case of initiation by a petition, state the essential facts about the petition and its presentation.

Section 313. Section 75-7112. Form, contents and circularization of petition proposing school district board election. Any petition for the calling of an election on

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the proposition of issuing school district bonds shall: (1) plainly state each purpose of the proposed bond issue and the estimated amount of the bonds that would be issued for each purpose;

(2) be signed by not less than twenty per cent (20%) of the school district electors qualified to vote under the provisions of section 75-6411 in order to constitute a valid petition;

(3) be a single petition or it may be composed of more than one petition, all being identical in form, and after being circulated and signed they shall be fastened together to form a single petition when submitted to the county registrar;

(4) be circulated by any one or more qualified electors of the school district; and

(5) contain an affidavit of each registered elector circulating a petition attached to the portion of the petition he circulated. Such affidavit shall attest to the authenticity of the signatures and that the signers knew the contents of the petition at the time of signing it.

Section 314. Section 75-7113. Validation of petition and county registrar's certificate. The petitioners for a school district bond election shall submit their petition to the county registrar of the county where the school district is located for validation of the signatures on the petition. The county registrar shall examine the petition and shall attach or endorse thereon a certificate which shall state: (1) the total number of electors of the school district who are, at the time, qualified to vote under the provisions of section 75-6411;

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(2) which and how many of the persons whose names are subscribed to the petition possess the qualifications to vote on a bond proposition; and

(3) whether the number of qualified signers established in subsection (2) is more or less than twenty per cent (20%) of the total number of qualified electors established in subsection (1).

After completing the examination, the county registrar shall immediately send the petition and his certificate to the school district. The county registrar shall not receive compensation for the examination of school district bond petitions.

Section 315. Section 75-7114. Trustees' consideration of validated petition proposing bond election. When a school district receives a school district bond petition from the county registrar, a meeting of the trustees shall be called for the consideration of the petition. The trustees shall be the judges of the adequacy of the petition and their findings shall be conclusive against the school district in favor of the innocent holder of bonds issued pursuant to the election called and held by reason of the presentation of such petition. The petition shall be valid if the trustees find that it is in proper form and bears the signatures of not less than twenty per cent (20%) of the school district electors who are qualified to vote under the provisions of section 75-6411.

Section 316. Section 75-7115. Preparation and form of ballots for bond election. The school district shall cause ballots to be prepared for all bond elections, and whenever bonds for more than one purpose are to be voted

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upon at the same election, separate ballots shall be prepared for each purpose. All such ballots shall be substantially in the following form:

OFFICIAL BALLOT

SCHOOL DISTRICT BOND ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BONDS -- YES" if you wish to vote for the bond issue; if you are opposed to the bond issue make an X or similar mark in the square before the words "BONDS -- NO."

Shall the board of trustees be authorized to issue and sell bonds of this school district in the amount of _____ dollars ($_____) bearing interest at a rate not more than six per cent (6%) per annum, payable semiannually, during a period not more than _____ years, for the purpose _____ (here state the purpose the same way as in the notice of election).

☐ BONDS -- YES.

☐ BONDS -- NO.

Section 317. Section 75-7116. Notice of bond election by separate purpose. Any school district bond election shall be conducted in accordance with the school election provisions of this title except that the election notice required therein shall be in substantially the following form:

NOTICE OF SCHOOL DISTRICT BOND ELECTION

Notice is hereby given by the trustees of School District No. _____ of _____ County, state of Montana, that pursuant to a certain resolution duly adopted at a meeting of the board of trustees of said school district held on the

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_____ day of _____, A.D., 19_____, an election of the registered electors of School District No. _____ of _____ County, state of Montana, who are taxpayers therein and whose names appear on the last completed assessment roll for state, county and school district taxes prior to the holding of such election, will be held on the _____ day of _____, A.D., 19_____, at _____ for the purpose of voting upon the question of whether or not the trustees shall be authorized to issue and sell bonds of said school district in the amount of _____ dollars ($_____), bearing interest at a rate not more than six per cent (6%) per annum, payable semiannually, for the purpose of _____ (here state purpose) _____. The bonds to be issued will be either amortization or serial bonds, and amortization bonds will be the first choice of the board of trustees. The bonds to be issued, whether amortization or serial bonds, will be payable in installments over a period not exceeding _____ (state number) years.

The polls will be open from _____o'clock ___m. and until _____o'clock ___m. of the said day.

Dated and posted this _____ day of _____, A.D., 19_____.

_____

Chairman of School District No. _____ of _____ County, State of Montana

If the bonds proposed to be issued are for more than one purpose, then each purpose shall be separately stated in the notice together with the proposed amount of bonds therefor.

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Section 318. Section 75-7117. Determination of approval or rejection of proposition at bond election. When the trustees canvass the vote of a school district bond election under the provisions of section 75-6423, they shall determine the approval or rejection of the school bond proposition in the following manner: (1) determine the total number of electors of the school district who are qualified to vote under the provisions of section 75-6411 from the list of electors supplied by the county registrar for such bond election;

(2) determine the total number of qualified electors who voted at the school bond election from the tally sheet or sheets for such election;

(3) calculate the percentage of qualified electors voting at the school bond election by dividing the amount determined in subsection (2) by the amount determined in subsection (1); and

(4) when the calculated percentage in subsection (3) is forty per cent (40%) or more, the school bond proposition shall be deemed to have been approved and adopted if a majority of the votes shall have been cast in favor of such proposition, otherwise it shall be deemed to have been rejected; or

(5) when the calculated percentage in subsection (3) is more than thirty per cent (30%) but less than forty per cent (40%), the school bond proposition shall be deemed to have been approved and adopted if sixty per cent (60%) or more of the votes shall have been cast in favor of such proposition, otherwise it shall be deemed to have been rejected; or

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(6) when the calculated percentage in subsection (3) is thirty per cent (30%) or less, the school bond proposition shall be deemed to have been rejected.

If the canvass of the vote establishes the approval and adoption of the school bond proposition, the trustees shall issue a certificate proclaiming the passage of such proposition and the authorization to issue bonds of the school district for the purposes specified on the ballot for such school district bond election.

Section 319. Section 75-7118. Trustees resolution to issue school district bonds. Within sixty (60) days after the date of the election certificate or as soon thereafter as is practical in the judgment of the trustees, the trustees shall adopt a resolution providing for the issuance of bonds of the school district. Such resolution also shall specify: (1) the number of series or installments in which the bonds are to be issued;

(2) the amount of bonds to be issued;

(3) the maximum rate of interest;

(4) the purpose or purposes of the issue;

(5) the date the issue will bear;

(6) the period of time through which the issue will be paid;

(7) the manner of execution of the bonds;

(8) that amortization bonds will be preferred but also fix the denomination of serial bonds; and

(9) the date and time that the sale of the bonds shall be conducted.

Section 320. Section 75-7119. Notice of sale of school district bonds. The trustees shall cause the notice

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of the sale of the bonds to be given. The notice shall state the purpose for which the bonds are to be issued and the amount proposed to be issued, and shall be substantially in the following form:

NOTICE OF SALE OF SCHOOL DISTRICT BONDS

Notice is hereby given by the trustees of School District No. _____ of _____ County, state of Montana, that the said trustees will on the _____ day of _____, 19_____, at the hour of _____o'clock ___m. at _____, in the said school district, sell to the highest and best bidder for cash, either amortization or serial bonds of the said school district in the total amount of _____ dollars ($_____), for the purpose of _____ _____.

Amortization bonds will be the first choice and serial bonds will be the second choice of the trustees.

If amortization bonds are sold and issued, the entire issue may be put into one single bond or divided into several bonds, as the trustees may determine upon at the time of sale, both principal and interest to be payable in semiannual installments during a period of _____ years from the date of issue.

If serial bonds are issued and sold they will be in the amount of _____ dollars ($_____) each, except the first bond which will be in the amount of _____ dollars ($_____), the sum of _____ dollars ($_____) of the said serial bonds will become payable on the _____ day of _____, 19_____, and the sum of _____ dollars ($_____) will become payable on the same day each year thereafter until all of such bonds are paid.

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The bonds, whether amortization or serial bonds, will bear date of _____, 19__, and will bear interest at a rate not exceeding six per cent (6%) per annum, payable semiannually, on the ____ day of _____ ____ (month _____ and _____ (month) _____ in each year, and will be redeemable in full. (here insert optional provisions, if any, to be recited on the bonds.)

The bonds will be sold for not less than their par value with accrued interest, and all bidders must state the lowest rate of interest at which they will purchase the bonds at par. Such bonds shall be sold in open competition bidding, by written bids, or by sealed bids. The trustees reserve the right to reject any and all bids and to sell the said bonds at private sale.

All bids other than by or on behalf of the state board of land commissioners must be accompanied by money, a certified check, cashier's check, bank money order or bank draft, drawn and issued by a national banking association located in Montana or by any banking corporation incorporated under the laws of Montana, in the sum of _____ dollars ($_____) payable to the order of the district, which will be forfeited by the successful bidder in the event that he shall refuse to purchase the bonds.

All bids should be addressed to the undersigned district.

_____

Chairman, School District No. ___

of _____ County

Address: _____

ATTEST:

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Subscribed and sworn to before me
this _____ day of _____, 19__.

_____

Notary Public for the State Residing at _____, Montana.
My Commission expires _____.

Section 321. Section 75-7120. Publication of notice of sale of school district bonds. The trustees shall cause a copy of the notice of sale of the bonds to be: (1) published once a week for four successive weeks preceding the date of the sale in a newspaper as determined by the trustees;

(2) published once, not less than thirty (30) days prior to the date of sale, in some daily newspaper of the state that has a general circulation throughout the state when the bond issue to be sold is ten thousand dollars ($10,000) or more; and

(3) sent to the state board of land commissioners.

If the bond issue to be sold is ten thousand dollars ($10,000) or more, the trustees may cause a brief notice to be published in some newspaper in the city of New York.

Section 322. Section 75-7121. Sale of school district bonds. The trustees shall meet at the time and place fixed in the notice to consider bids on the bond issue. The bonds shall be sold at not less than par and accrued interest and each bidder shall specify the form of bonds to be issued, whether amortization or serial, and the rate of interest at which he will purchase the bonds. A bid for amortization bonds shall have the preference over a bid for serial bonds, all other things being equal; and in considering bids on

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these classes of bonds, the trustees shall take into consideration not only the rate of interest demanded on each kind, but also every other known element affecting the total cost of the bonds to the district when paid in full. The trustees shall accept the bid which they shall judge most advantageous to the school district; provided, that no bid shall be accepted which will require the bonds to bear a rate of interest exceeding six per cent (6%) per annum. No attorney fees, brokerage or other fees, or commissions of any kind shall be paid to any person or corporation for assisting in the proceedings or in the preparation of the bonds, or in negotiating the sale. The trustees are authorized to reject any or all bids and to sell the bonds at private sale if they deem it for the best interests of the school district except that such bonds shall not be sold at less than par and accrued interest.

Section 323. Section 75-7122. Form and printing of school district bonds. It shall not be necessary for the trustees to prescribe the detailed form of the bonds to be issued but the bonds must conform to all legal requirements for their payment, whether they are issued as amortization or serial bonds. The bonds and coupons shall be issued in the name of the school district and shall be executed by the chairman of the trustees and the school district clerk in accordance with chapter 13 of title 59, R.C.M., 1947. If the bonds are purchased by the state board of land commissioners, all payments of principal or interest shall be made at the office of the state treasurer.

The trustees shall cause the bonds, with the attached coupons, to be printed at the expense of the school dis-

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trict at the lowest commercial rates.

Section 324. Section 75-7123. Registration of school district bonds by county treasurer and copy for preservation. When the school district bonds have been duly executed by the chairman of the trustees and the school district clerk, all such bonds shall be registered by the county treasurer in his bond registration book before such bonds are delivered to the purchaser. The bond registration shall show the number and amount of each bond, the date of issue, the redeemable date of each bond, the name of the purchaser, and the amount and due date of all payments required on the bonds.

The trustees shall provide the county treasurer with an unsigned and canceled printed copy of each issue of school district bonds for preservation in the office of the county treasurer.

Section 325. Section 75-7124. Delivery of school district bonds and disposition of monies realized from sale. After the school district bonds have been registered, the county treasurer shall: (1) when the state board of land commissioners has purchased such bonds, forward the bonds to such state board which, in turn, shall cause the bonds to be sent to the state treasurer and shall cause the bonds to be paid for in the manner provided by law; or

(2) when the purchaser is anybody other than the state board of land commissioners, deliver the bonds to such purchaser when full payment of the bonds has been made by the purchaser.

If any of the trustees shall fail or refuse to pay into the proper county treasury the money arising from the sale

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of any bonds, he shall be deemed guilty of a felony. If convicted, he shall be punished by imprisonment in the state prison for not less than one (1) year nor more than ten (10) years.

All monies realized from the sale of school district bonds shall be paid to the county treasurer and he shall credit such monies to the building fund of the school district issuing such bonds; except monies realized for the purposes defined in subsection (5) and (6) of section 75-7103 shall be deposited in the debt service fund for the purchase of such bonds. The monies realized from the sale of school district bonds shall be immediately available to such school district and the trustees may expend such monies without budgeted authorization for the purpose or purposes, but only for such purposes, for which the bonds were authorized by the school district bond election. Under the provisions of subsection (2) of section 16-2050, R.C.M., 1947, the trustees may invest such monies for which there is no immediate demand and the interest earned by such investment shall be used in the manner provided therein. After the full accomplishment of the purpose or purposes of a bond issue, the excess monies realized from such bond issue shall be transferred to the debt service fund of the school district to be used for the redemption or purchase of bonds of such issue.

Section 326. Section 75-7125. County attorney to assist in the proceedings. The trustees of any school district conducting bond proceedings shall prepare and maintain a transcript of their bond proceedings. It is a part of the official duties of the county attorney of every

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county of this state to advise and assist the trustees of each school district of his county in its bond proceedings. Before any transcript of school district bond proceedings is sent to the state board of land commissioners, he shall carefully examine such transcript, and the transcript shall not be sent until he has attached his opinion to the transcript that the proceedings are in full compliance with law.

Section 327. Section 75-7126. School district liable on bonds. The full faith, credit and taxable resources of every school district issuing bonds under the provisions of this title are hereby solemnly pledged for the repayment of such bonds with interest according to their terms. For the purpose of making the provisions of this act enforceable every school district is hereby declared to be a body corporate which may sue and be sued by or in the name of the trustees of such school district.

Section 328. Section 75-7127. Preparation of debt service fund budget. The trustees of each school district having outstanding bonds shall include in the debt service fund of the preliminary budget adopted in accordance with section 75-6707 an amount of money that is necessary to pay the interest and the principal amount becoming due during the ensuing school fiscal year for each series or installment of bonds, according to the terms and conditions of such bonds and the redemption plans of the trustees. The county superintendent shall compare the preliminary budgeted amount for the debt service fund with the bond retirement and interest requirement for the school fiscal year just beginning as reported by the county treasurer in his statement

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supplied under the provisions of section 75-6710. If the county superintendent finds that the requirement stated by the county treasurer is more than the preliminary budget amount, the county superintendent shall increase the budgeted amount for interest or principal in the debt service fund of the preliminary budget. The amount confirmed or revised by the county superintendent shall be the final budget expenditure amount for the debt service fund of such school district.

Section 329. Section 75-7128. Computation of net levy requirement for debt service fund and proceedings if board of county commissioners fail to make adequate levy. The county superintendent shall compute the levy requirement for each school district's debt service fund on the basis of the following procedure: (1) Determine the total monies available in the debt service fund for the reduction of the property tax on the district by totaling:

(a) the end-of-the-year cash balance, less any outstanding warrants in the debt service fund;

(b) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of subsection (4) of section 75-6806 or by the investment of bond proceeds under the provisions of section 75-7124; and

(c) any other monies anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from such sources as legally authorized money transfers into the debt service fund or from rental income.

(2) The total amount available to reduce the property

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tax, determined in subsection (1), shall be subtracted from the final budget expenditure amount for the debt service fund as established in section 75-7127.

(3) The net debt service fund levy requirement determined in subsection (2) shall be reported to the county commissioners on the second Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy shall be made by the county commissioners in accordance with section 75-6717.

If the board of county commissioners shall fail in any school fiscal year to make a levy for any issue or series of bonds of any school district sufficient to raise the monies necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in such amounts as are established under the provisions of this section, the holder of any bond of such issue or series or any taxpayer of the district may apply to the district court of the county in which such school district is located for a writ of mandate to compel the board of county commissioners of such county to make a sufficient levy for such purposes. If, upon the hearing of such application, it shall appear to the satisfaction of the court that the board of county commissioners of such county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of such deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy

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against all taxable property in such school district that is sufficient to raise the amount of such deficiency. Such levy shall be in addition to any levy required to be made at that time for the then ensuing school fiscal year. Any costs which may be allowed or awarded the petitioner in any such proceeding shall be paid by the members of the board of county commissioners, and shall not be a charge against the school district or the county.

Section 330. Section 75-7129. Payment of debt service obligations by county treasurer and termination of interest. The county treasurer shall maintain a separate debt service fund for each school district, and shall credit all tax monies collected for debt service to such fund and use the monies credited to such fund for the payment of debt service obligations in accordance with the school financial administration provisions of this title.

The county treasurer shall pay from the debt service fund all amounts of interest and principal on school district bonds as such interest or principal becomes due when the coupons or bonds are presented and surrendered for payment. If the bonds are held by the state of Montana, then all payments shall be remitted to the state treasurer who shall cancel the coupons or bonds and return such coupons or bonds to the county treasurer with his receipt. If the bonds are not held by the state of Montana, and the interest or principal is made payable at some designated bank or financial institution, the county treasurer shall remit the amount due for interest or principal to such bank or financial institution for payment against the surrender of the canceled coupons or bonds.

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Whenever any school district bond, or installment on school district bonds, shall become due and payable, interest shall cease on such date unless sufficient funds are available to pay such bond when it is presented for payment or when payment of an installment is demanded. In either case, interest on such bond or installment shall continue until payment is made.

Any installment on interest and principal on bonds held by the state, that is not promptly paid when due, shall draw interest at an annual rate of six per cent (6%) from the date due until actual payment, irrespective of the rate of interest on the bonds.

Section 331. Section 75-7130. Redemption of bonds and investment of debt service fund monies. Whenever there is a sufficient amount of money in any school district debt service fund available to pay and redeem one or more bonds of such school district held by the state of Montana, the county treasurer shall apply such money in payment of as many of such bonds as can be paid and redeemed. The county treasurer shall give notice not less than thirty (30) days before the next interest due date to the state board of land commissioners that on such interest due date such bond or bonds will be paid. Before such interest due date, the county treasurer shall remit to the state treasurer the amount of money that is necessary to pay the bond or bonds that are being redeemed and the interest due on such bonds. When the state treasurer receives such payment, he shall cancel such bond or bonds and any unpaid coupons of such bonds, and return the canceled bonds and coupons to the county treasurer.

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Whenever there is a sufficient amount of money in any school district debt service fund available to pay and redeem one or more optional bonds of such school district not held by the state of Montana, not yet due but then redeemable, or becoming redeemable on the next interest due date, the county treasurer shall apply such available money in payment of as many of such bonds as can be paid and redeemed. The county treasurer shall give notice to the holder of the bond or bonds, if known to him, or to any bank or financial institution at which the bonds are payable, at least thirty (30) days before the next interest due date, that the bond or bonds will be paid and redeemed on such date. If the bonds are payable at some bank or financial institution, the county treasurer shall remit to the bank or financial institution, before such interest due date, an amount sufficient to pay and redeem the bond or bonds. If the bond or bonds are not presented for payment and redemption on such interest due date, the accrual of interest shall cease on such interest due date.

Whenever there is money available in any school district debt service fund sufficient to pay and redeem one or more outstanding bonds not yet due or redeemable and not held by the state of Montana, the trustees of such school district may direct the county treasurer to purchase such bond or bonds of the district if this can be done at not more than par and accrued interest or at such reasonable premium as the trustees may feel justified in paying but in no case exceeding six per cent (6%).

Whenever the trustees cannot purchase outstanding bonds of the school district at a reasonable price, the available

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debt service fund monies shall be invested by the trustees under the provisions of subsection (4) of section 75-6806. Such investments shall be sold in ample time before the debt service fund monies are required for the payment of the bonds of the school district.

Section 332. Section 75-7131. Entries of payments and notification of school district. The county treasurer shall make the necessary entries of all payments of interest and principal on his bond registration record and shall promptly notify the clerk of the school district when such payments are made. The county treasurer also shall deliver the canceled coupons and bonds to the county clerk at the end of each month. The county clerk shall file such canceled coupons and bonds in his office.

Section 333. Section 75-7132. Disposition of monies remaining in debt service fund. When all of the bonds and bond interest of any school district have been fully paid, all money remaining in the debt service fund for such school district and all monies which may come into such debt service fund from the payment of the delinquent taxes shall be transferred by the county treasurer to the general fund of such school district.

Section 334. Section 75-7133. County bonding for county high school not placed in high school district. Sections 75-7134 through 75-7138 shall be used for the purposes of indebting a county for county high school facilities when the county high school in such county has not been placed in a high school district by the high school boundary commission of the county. The provisions of such sections shall not be available to any county high school that has

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been placed in a high school district or to any other high school or district.

Section 335. Section 75-7134. Purposes and petition for county high school bonds. Any county where a county high school that has not been placed in a high school district is located may become indebted by the issuance of bonds for the purposes of: (1) purchasing or erecting a building or buildings for high school purposes;

(2) remodeling, enlarging, or repairing a building or buildings for high school purposes;

(3) purchasing equipment for high school purposes;

(4) purchasing, erecting, or equipping a high school dormitory or gymnasium;

(5) purchasing a suitable site or sites for such high school building; or

(6) refunding or redeeming any outstanding bonds originally issued for any of the foregoing purposes.

In order to initiate any bonding proposition for the above purposes, a petition signed by not less than twenty per cent (20%) of the electors of the county who are qualified under section 75-6411 shall be presented to the trustees of the county high school. Such petition shall request the submission of a bond proposition to the qualified electors of the county, and shall specify the purpose or purposes of the proposed bond issue and the amount of bonds to be issued. Such petition shall conform with the petition requirements prescribed in section 75-7112. If the trustees of the county high school approve a validated petition for a bond proposition, they shall request the board of county commissioners of the county to submit such bond prop-

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osition to the qualified electors of the county.

Section 336. Section 75-7135. Duty of board of county commissioners to call election and issue bonds. Immediately upon the receipt of any bond proposition request from the trustees of the county high school, it shall be the duty of the board of county commissioners to submit such question to the qualified electors of the county in the manner otherwise provided by law for the submission of the proposition of the issuance of other county bonds. If a majority of the qualified electors of the county, voting upon the proposition so submitted, shall approve such issue, then the board of county commissioners shall issue and market the bonds authorized as in the case of other county bonds.

Section 337. Section 75-7136. Proration of county bond proceeds between high schools of the county. In any county where a county high school is located and such county high school is not located in a county that has been divided into high school districts and another high school is maintained by an elementary district of the county, bonds of the county may likewise be issued in accordance with the provisions of sections 75-7134 and 75-7135. The proceeds of such issue shall be divided among the county high school and the districts maintaining a high school. The question submitted to the electors of the county shall state the amount which is to be allotted to the county high school and the amount which is to be apportioned to or among such districts. In all such cases, the amount allotted to the county high school and the amount to be apportioned among the districts shall be computed upon the basis of the

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taxable valuation of the county that is used for county high school property taxation purposes and the taxable valuation of the districts maintaining a high school. Any such bond monies apportioned to a district shall not be expended until the purpose for the expenditure has been approved by a vote of the qualified electors at an election held in the same manner prescribed for a school district bond election.

Section 338. Section 75-7137. Payment of county bonds. All bonds authorized and issued for a county high school not located in a high school district shall be paid, both principal and interest, in the manner provided by law for the payment of other bonds of the county.

Section 339. Section 75-7138. Budget prohibition when county bonds issued. In all cases where bonds of the county are issued for county high school purposes, the trustees of the county high school shall not budget for any item of expense or disbursement for the purposes for which such county bonds have been issued.

Section 340. Section 75-7201. Elementary tuition rates. Whenever a pupil of an elementary district has been granted approval to attend a school outside of the district in which he resides, under the provisions of section 75-6313 or 75-6314, such district shall pay tuition to the elementary district where the pupil attends school on the basis of the following schedule: (1) two hundred seventy-five dollars ($275) per pupil when the ANB of the attended school is one hundred (100) or less;

(2) two hundred fifty dollars ($250) per pupil when the ANB of the attended school is more than one hundred (100)

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but less than three hundred one (301); or

(3) two hundred twenty-five dollars ($225) per pupil when the ANB of the attended school is three hundred one (301) or more.

Section 341. Section 75-7202. End of term tuition report and notification of resident elementary district. At the close of the school term of each school fiscal year and before the fifteenth (15th) day of July, the trustees of each elementary district shall report to the county superintendent: (1) the names of the pupils attending the schools of the district under an approved tuition agreement with the district of residence of each pupil;

(2) the number of days of school attended by each pupil; and

(3) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, may waive. Any waiver of tuition shall be applied equally to all pupils.

When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the county superintendent of each county in which the reported pupils reside. In turn, every county superintendent shall notify each elementary district of his county of the tuition amounts owed to other elementary districts of the county or outside of the county. Such amounts shall be established from the tuition rate stated in each pupil's tuition agreement and from the information reported by the district in which the pupil attended school. No tuition shall be due when a pupil attends less than forty (40) days of school in such district.

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Section 342. Section 75-7203. Budgeting, levy requirement and paying elementary tuition. The tuition amount that has been established in section 75-201 shall be paid during the ensuing school fiscal year. The trustees of the elementary district shall include such amount in the tuition fund of the preliminary budget. If the trustees should fail to include such amount or any portion of it in the preliminary budget, the budget board shall adjust the budgeted amount in adopting the final budget to provide for the total tuition amount that is due during the ensuing school fiscal year. Such adjustment shall not be subject to the budget adjustment provisions of section 75-6714.

The county superintendent shall report the net tuition fund levy requirement for each elementary district to the county commissioners on the second Monday of August, and a levy on the district shall be made by the county commissioners in accordance with section 75-6717. Such levy requirement shall be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget, the sum of the cash balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated monies that may be realized in the tuition fund.

The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification provided under the provisions of section 75-7201. Such payments shall be made whenever there is a sufficient amount of cash available in the tuition fund, but no later than the end of the school fiscal

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year for which the budget was adopted.

Section 343. Section 75-7204. Retirement fund. The trustees of any district employing personnel who are members of the teachers retirement system or the public employees retirement system shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to such retirement systems. The district's contribution for each employee who is a member of the teachers retirement system shall be calculated in accordance with section 75-6207. The district's contribution for each employee who is a member of the public employees retirement system shall be calculated in accordance with section 68-603, R.C.M., 1947.

The trustees of any district required to make a contribution to either retirement system shall include in the retirement fund of the preliminary budget the estimated amount of the employer's contribution and such additional monies, within legal limitations, as they may wish to provide for the retirement fund cash reserve. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to such retirement systems in accordance with the financial administration provisions of this title.

When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by: (1) determining the sum of the monies available to reduce the retirement fund levy requirement by adding:

(a) any anticipated monies that may be realized in the retirement fund during the ensuing school fiscal year; and

(b) any cash available for reappropriation as deter-

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mined by subtracting the amount of the end-of-the-year cash balance earmarked as the retirement fund cash reserve for the ensuing school fiscal year by the trustees from the end-of-the-year cash balance in the retirement fund. The retirement fund cash reserve shall not be more than thirty-five per cent (35%) of the final retirement fund budget for the ensuing school fiscal year and shall be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget.

(2) subtracting the total of the monies available for reduction of the levy requirement as determined in subsection (1) from the budgeted amount for expenditures in the final retirement fund budget.

The net retirement fund levy requirement for each elementary district shall be reported to the county commissioners on the second Monday of August by the county superintendent, and a levy on each elementary district shall be made by the county commissioners in accordance with section 75-6717.

The county superintendent shall total the net retirement fund levy requirements of all high school districts of the county, including any prorated joint high school district levy requirements, and shall report such levy requirement to the county commissioners on the second Monday of August as the county levy requirement for high school district retirement funds. The county commissioners shall fix and set such county levy in accordance with section 75-6717.

The net retirement fund levy requirement for a joint high school district shall be prorated to each county in which a part of such district is located in the same pro-

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portion as the high school ANB of the joint high school district is distributed by pupil residence in each such county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in section 75-6721.

Section 344. Section 75-7205. Purpose and authorization of a building reserve fund by an election. The trustees of any district, with the approval of the qualified electors of the district, may establish a building reserve for the purpose of raising money for the future construction, equipping or enlarging of school buildings or other buildings needed for school purposes in the district. In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies: (1) the purpose or purposes for which the new or addition to the building reserve will be used;

(2) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;

(3) the total amount of money that will be raised during the duration of time specified in subsection (2); and

(4) any other requirements under section 75-6406 for the calling of an election.

The total amount of building reserve when added to the outstanding indebtedness of the district shall not be more than five per cent (5%) of the value of the taxable property of the district. Such limitation shall be determined in the manner provided in section 75-7104. A building reserve tax

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authorization shall not be for more than twenty (20) years.

The election shall be conducted in accordance with the school election laws of this title and the electors qualified to vote in the election shall be qualified under the provisions of section 75-6411. The ballot for a building reserve proposition shall be substantially in the following form:

OFFICIAL BALLOT

SCHOOL DISTRICT BUILDING RESERVE ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BUILDING RESERVE -- YES" if you wish to vote for the establishment of a building reserve (addition to the building reserve); if you are opposed to the establishment of a building reserve (addition to the building reserve) make an X or similar mark in the square before the words "BUILDING RESERVE -- NO."

Shall the trustees be authorized to impose an additional levy each year for _____ years to establish a building reserve (add to the building reserve) of this school district to raise a total amount of _____ dollars ($___, for the purpose(s) _____ (here state the purpose or purposes for which the building reserve will be used).

☐ BUILDING RESERVE -- YES.

☐ BUILDING RESERVE -- NO.

The building reserve proposition shall be approved if a majority of thosy electors voting at the election approve the establishment of or addition to such building reserve. The annual budgeting and taxation authority of the trustees for a building reserve shall be computed by dividing the

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total amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve shall lapse when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve shall be used for such purpose or purposes before any money realized by the bond issue is used.

Section 345. Section 75-7206. Budgeting, tax levy and use of the building reserve fund. Whenever an annual building reserve authorization to budget is available to a district, the trustees shall include such authorized amount in the building reserve fund of the preliminary budget. The county superintendent shall report such amount as the building reserve fund levy requirement to the county commissioners on the second Monday of August, and a levy on the district shall be made by the county commissioners in accordance with section 75-6717.

The trustees of any district maintaining a building reserve fund shall have the authority to expend monies from such fund for the purpose or purposes for which it was authorized without such specific expenditures being included in the final budget when, in their discretion, there is a sufficient amount of money to commence the authorized projects. Such expenditures shall not invalidate the district's authority to continue the annual imposition of the building reserve taxation authorized by the electors of the district.

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Whenever there is money credited to the building reserve fund for which there is no immediate need, the trustees may invest such money in accordance with subsection (4) of section 75-6806. The interest earned from the investment shall be credited to the building reserve fund or the debt service fund, at the discretion of the trustees, and expended for any purpose authorized by law for such fund.

Section 346. Section 75-7207. Adult education fund. Whenever the trustees of any district establish an adult education program under the provisions of section 75-7513, they shall establish an adult education fund under the provisions of section 75-7515. The adult education fund shall be the depository for all federal, state and district monies received by the district in support of the adult education program.

The trustees of any district may authorize the levy of a tax of not more than one (1) mill on the district for the operation of an adult education program when the superintendent of public instruction has approved the educational program to be supported by such levy. The approval of the superintendent of public instruction shall have been acquired by the trustees before the fourth Monday of June in order to include the expenditures to be financed by the levy in the preliminary budget. The superintendent of public instruction shall promulgate rules and forms for such approval.

Whenever the trustees of any district decide to offer an adult education program during the ensuing school fiscal year, they shall budget for the cost of such program in the adult education fund of the preliminary budget. Any expenditures in support of the adult education program under

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the final adult education budget shall be made in accordance with the financial administration provisions of this title for a budgeted fund.

When a tax levy for an adult education program which has been approved by the superintendent of public instruction is included as a revenue item on the final adult education budget, the county superintendent shall report such levy requirement to the county commissioners on the second Monday of August, and a levy on the district shall be made by the county commissioners in accordance with section 75-6717.

Section 347. Section 75-7208. Post-secondary vocational-technical center fund. Whenever an approved post-secondary vocational-technical center under the provisions of section 75-7707 is operated within a district, the trustees of such district shall establish a post-secondary vocational-technical center fund. All monies prescribed and received under the provisions of section 75-7709 shall be credited to the post-secondary vocational-technical center fund. The expenditure of the monies deposited in the post-secondary vocational-education center fund shall be made under the budget and for the programs approved by the board of education under the provisions of section 75-7708 and the financial administration provisions of this title.

The approval of the post-secondary vocational-technical center budget and subsequent revision or amendment of such budget by the board of education shall constitute the final budget approval and the inclusion of such fund in the district's preliminary budget and the final budget, approved by the budget board, shall not be required.

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Whenever the county tax prescribed in subsection (2) of section 75-7709 is to be used in support of the post-secondary vocational-technical center fund budget, the county commissioners are authorized to levy such tax on the county in accordance with the provisions of section 75-6717.

Section 348. Section 75-7209. Purpose and establishment of non-operating fund. The trustees of any district that will not operate any school during the ensuing school fiscal year shall establish a non-operating fund on the first day of such school fiscal year. In establishing the non-operating fund, the trustees shall cause the transfer of the end-of-the-year cash balance of each fund maintained by the district during the immediately preceding school fiscal year to the non-operating fund. However cash balances of the debt service fund and the miscellaneous federal programs fund, if any, shall be maintained in their individual funds.

The trustees of a district establishing a non-operating fund for the first year of non-operation may earmark a portion of the non-operating fund cash balance as a non-operating fund cash reserve when they anticipate the reopening of a school in the following school fiscal year. Such cash reserve shall not be more than the general fund cash reserve designated for the immediately preceeding school fiscal year. If a school is not operated in the following school fiscal year, the authority of the trustees to earmark a non-operating fund cash reserve shall terminate and the monies earmarked as a cash reserve shall be used to reduce the levy requirement of the non-operating fund. If the trustees

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acquire approval to reopen a school in the following school fiscal year under the provisions of section 75-6602 or 75-6603 and operate such school, the non-operating fund cash reserve shall be restored as the general fund cash reserve.

The purpose of the non-operating fund shall be to centralize the financing and budgeting for the limited functions of a district not operating a school. Such functions shall include: (1) elementary tuition obligations to other districts;

(2) transportation of the resident pupils;

(3) maintenance of district owned property; and

(4) any other non-operating school function of the district deemed necessary by the trustees or required by law.

Any expenditure of non-operating fund monies shall be made in accordance with the financial administration provisions of this title for a budgeted fund.

Section 349. Section 75-7210. Budgeting and net levy requirement for non-operating fund. The trustees of any district which does not operate a school or will not operate a school during the ensuing school fiscal year shall adopt a non-operating school district budget in accordance with the school budgeting provisions of this title. Such non-operating budget shall contain the non-operating fund and, when appropriate, a debt service fund. The non-operating budget form shall be promulgated and distributed by the superintendent of public instruction under the provisions of section 75-6704.

After the adoption of a final budget for the non-operating fund, the county superintendent shall compute the

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net levy requirement for such fund by subtracting from the amount authorized by such budget the sum of: (1) The end-of-the-year cash balance of the non-operating fund or, if it is the first year of non-operation, the cash balance determined under the transfer provisions of section 75-7209;

(2) the estimated state and county transportation reimbursements; and

(3) any other monies that may become available during the ensuing school fiscal year.

The county superintendent shall report the net non-operating fund levy requirement and any net debt service fund levy requirement determined under the provisions of section 75-7128 to the county commissioners on the second Monday of August, and such levies shall be made on the district by the county commissioners in accordance with section 75-6717.

Section 350. Section 75-7211. School food services fund. The trustees of any district offering school food services shall establish a school food services fund under the provisions of section 75-8005. Such fund shall be a non-budgeted fund and shall be financially administered under the provisions of this title for a non-budgeted fund.

Section 351. Section 75-7212. Miscellaneous federal programs fund. The trustees of any district receiving federal monies other than monies under the provisions of Title I of Public Law 81-874 or federal monies designated for deposit in a specific fund of the district shall establish a miscellaneous federal programs fund for the deposit of such federal monies. Such federal monies may be a reimbursement of expenditures already realized by the district, or

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may be a grant of monies for the financing of expenditures to be realized by the district for a special, approved program to be operated by the district. When the federal monies are a reimbursement, the monies shall be expended at the discretion of the trustees for school purposes. When the federal monies are a grant, the monies shall be expended according to the conditions of the program approval by the superintendent of public instruction or any other approval agent. Within the miscellaneous federal programs fund, the trustees shall cause a separate accounting to be maintained for each federal grant program and for the aggregate of all federal reimbursement monies.

The financial administration of the miscellaneous federal programs fund shall be in accordance with the financial administration provisions of this title for a non-budgeted fund which shall be applied by individual federal grant programs or for the aggregate amount of the federal reimbursement monies rather than on the basis of the total fund.

Section 352. Section 75-7213. Building fund. The trustees of any district shall establish or credit the building fund whenever such district: (1) issues and sells bonds under the school district bonding provisions of this title for purposes other than refunding bonds of the district;

(2) receives federal money for the express purpose of building, enlarging or remodeling a school building or other building of the district;

(3) sells property of the district in accordance with the law authorizing such sale;

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(4) receives money as an insurance settlement for the destruction of any property or portion of property insured by the district;

(5) earns interest from the investment of building fund monies under the provisions of subsection (4) of section 75-6806 except interest earned from the investment of bond monies under the provisions of section 75-7124 shall be credited to a fund in accordance with such section; or

(6) receives any other monies for the express purpose of building, enlarging or remodeling a school building or other building of the district.

The financial administration of the building fund shall be in accordance with the financial administration provisions of this title for a non-budgeted fund, and shall provide for a separate accounting of the monies realized by each bond issue or by each construction project financed by a federal grant of monies. Any other monies to the credit of this fund shall be expended for building, enlargement, remodeling or repairing of buildings of the district at the discretion of the trustees.

Monies credited to the building fund under the provisions of subsection (1) of this section shall be expended for the express purpose or purposes authorized by the bond proposition approved at the election authorizing the issuance of such bonds. Any money realized by the sale of bonds and remaining to the credit of the building fund after the full accomplishment of the purpose for which the bonds were sold, shall be transferred to the debt service fund to be used for the redemption of bonds of such issue.

Monies credited to the building fund under the pro-

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visions of subsection (2) of this section shall be expended for the express purpose or purposes authorized by the federal government in granting such monies.

Section 353. Section 75-7214. Housing and dormitory fund. The trustees of any district that provides pupil or teacher housing in district owned buildings under a lease or rental agreement with pupils or teachers shall establish a housing and dormitory fund. All monies received from such lease or rental agreements shall be deposited with the county treasurer to the credit of the housing and dormitory fund, general fund, or the debt service fund. Whenever the end-of-the-year cash balance of the housing and dormitory fund is more than three thousand dollars ($3,000), such cash balance in excess of three thousand dollars ($3,000) shall be transferred to the general fund of the district.

Any expenditure of monies from the housing and dormitory fund shall be made for the maintenance and operation of the district owned buildings to which the lease or rental agreements apply or for the acquisition of additional housing or dormitory facilities. The financial administration of the housing and dormitory fund shall be in accordance with the financial administration provisions of this title for a non-budgeted fund.

Section 354. Section 75-7215. Traffic education fund. The trustees of any district offering a state reimbursed traffic education program shall establish a traffic education fund under the provisions of section 75-7907. Such fund shall be a non-budgeted fund and shall be financially administrated under the provisions of this title for a non-budgeted fund.

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Section 355. Section 75-7216. Interlocal cooperative agreement fund. The trustees of any district serving as a prime agency under an interlocal cooperative agreement shall establish an interlocal cooperative fund under the provisions of section 75-7306 for the financial administration of the interlocal cooperative agreement. Such fund shall be a non-budgeted fund and shall be financially administered under the provisions of this title for a non-budgeted fund.

Section 356. Section 75-7301. Public school fund. The public school fund shall be maintained by the state treasurer as a subfund in the trust and legacy fund and the principal amount of such fund shall be irreducible and permanent. The following monies shall be credited to such fund as an addition to the irreducible and permanent principal amount: (1) appropriations and donations by the state;

(2) donations and bequests by individuals to the state or schools;

(3) the proceeds of land and other property which revert to the state by escheat and forfeiture;

(4) the proceeds of all property granted to the state, when the purpose of the grant is not specified or is uncertain;

(5) funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law;

(6) the proceeds of the sale of timber, stone, materials, or other property from school lands other than those granted for specific purposes, and all monies other than rental recovered from persons trespassing on such lands;

(7) the principal of all monies arising from the sale

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of lands and other property which have been and may be hereafter granted to the state for the support of common schools;

(8) the amount earmarked for deposit in this fund under the provisions of section 75-6907; and

(9) such other monies as may be provided by the legislature.

Section 357. Section 75-7302. Title to farm mortgage lands vested in state and transfers validated. The transfer of farm mortgage lands made by chapter 250, Laws of 1953, shall be deemed to have vested title in such lands in the state of Montana in trust for the state public school fund.

All contracts, certificates of purchase, deeds, and conveyances executed by the state of Montana in the administration of such lands since the effective date of chapter 250, Laws of 1953, shall be deemed sufficient in law to dispose of the right, title, and interest therein described by the state of Montana.

Section 358. Section 75-7303. Acceptance and expenditure of federal monies for state. The governor and the superintendent of public instruction are hereby authorized on behalf of the state of Montana to request and accept such monies as are now or will be made available under any act of congress of the United States, or otherwise, for purposes of public school building construction or for any other purposes of public schools and public education as permitted under the laws of the state of Montana and as authorized by the grants from the federal government. Such monies shall be deposited by the governor and superintendent of public instruction with the state treasurer, and are hereby appro-

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priated and made available to the superintendent of public instruction. All such monies shall be expended for the purpose of public school building construction or for any other purposes of public schools and public education as permitted under the laws of the state of Montana and as authorized by the grants from the federal government. Such expenditures shall be made under the supervision and in the discretion of the superintendent of public instruction. Any balance in the account in which such monies are maintained shall not lapse at any time, but shall be continuously available to the superintendent of public instruction for expenditures consistent with this act and acts of the federal government.

Section 359. Section 75-7304. Financial administration of interlocal cooperative agreement. Any district contracting with other districts or other public agencies to establish an interlocal cooperative agreement under the provisions of chapter 49, Title 16, R.C.M., 1947, shall be subject to the provisions of sections 75-7305, 75-7306 and 75-7307 for the purposes of the financial administration of such agreement.

Section 360. Section 75-7305. Definitions of prime and cooperating agencies. For the purposes of an interlocal cooperative agreement the prime agency shall be the district or other public agency vested with the financial administration of the interlocal cooperative agreement under the terms of such agreement and the cooperating agency shall be any district or public agency other than the prime agency who is a party to the contract creating the interlocal cooperative agreement.

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Section 361. Section 75-7306. District as prime agency. When the prime agency is a district, it is authorized and required to establish a non-budgeted interlocal cooperative fund for the purpose of the financial administration of the interlocal cooperative agreement. All revenues received, including federal, state, or other types of grant payments in direct support of the agreement and the financial support provided by cooperating agencies, shall be deposited in such fund. All financial support of the agreement contributed by a district, designated as the prime agency, may be transferred to the interlocal cooperative fund from any fund maintained by such district by resolution of the trustees. Any such transfer to the interlocal cooperative fund shall be used to finance those expenditures under the agreement which are comparable to those that are permitted by law to be made out of the fund from which the transfer was made, and which are within the final budget for the fund from which the transfer was made. No transfer shall be made from the miscellaneous federal programs fund without the express approval of the superintendent of public instruction. All expenditures in support of the interlocal cooperative agreement shall be made from the interlocal cooperative fund established by the district which is the prime agency, except that expenditures in support of such agreement may be made from the miscellaneous federal programs fund when the express approval of the superintendent of public instruction is given.

Section 362. Section 75-7307. District as cooperating agency. When a district is the cooperating agency, it shall transfer its financial support under the interlocal coopera-

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tive contract to the prime agency by district warrant. The financial support may be provided from any fund maintained by the district. Any such fund utilized for the financial support of an interlocal cooperative agreement shall finance only those expenditures of such agreement that are comparable to those permitted under the statutory provisions creating such fund and such financial support must be within the currently adopted budget for such fund. No financial support shall be financed from the miscellaneous federal programs fund without the express approval of the superintendent of public instruction.

Section 363. Section 75-7308. Joint interstate school agreements. The trustees of any district adjacent to another state may enter into a contract with a school district in such adjoining state to provide for the joint erection, operation and maintenance of school facilities for both districts upon such terms and conditions as may be mutually agreed to by such districts and as are in accord with this section. Any such contract proposed for adoption by the trustees shall be in the form and contain only terms that may be prescribed by the superintendent of public instruction, and any such contract shall be approved by the superintendent of public instruction before it is considered by the electors of the district.

Before any contract negotiated under the provisions of this section shall be executed, the trustees shall call an election under the provisions of section 75-6406 and submit to the qualified electors of the district the proposition that such contract be approved and that the trustees execute such contract. No agreement shall be valid until it has

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been approved at an election. The electors at the election shall be qualified to vote under the provisions of section 75-6410 and the election shall be conducted under the school election provisions of this title. The ballot for the election shall be substantially in the following form:

PROPOSITION

SCHOOL DISTRICT NO. _____, _____ COUNTY

Shall the trustees of this district be authorized and directed to execute the proposed contract with school district number _____ of _____ county, state of _____, for the purpose of (insert the purpose of such contract)?

☐ FOR EXECUTION OF CONTRACT

☐ AGAINST EXECUTION OF CONTRACT

The trustees of any district executing a contract under this section shall have the power and authority to levy taxes and issue bonds for the purpose of erecting and maintaining the facilities authorized by this section. Furthermore, the facilities erected or maintained under this section may be located in either Montana or the adjoining state.

Section 364. Section 75-7309. Gifts, legacies, devises and administration of endowment fund. The trustees of any district shall have the authority and the power to accept gifts, legacies and devises, subject to the conditions imposed by the deed of the donor, the will of the testator or without any conditions imposed. Unless otherwise specified by the donor, devisor or testator, when a district receives a gift, legacy or devise, the trustees shall deposit such gift, legacy, devise, or the proceeds therefrom in an endowment fund. The trustees shall administer the endowment fund so as to preserve the principal from loss and

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only the income from such fund shall be appropriated for any purpose.

The money deposited in the endowment fund shall be invested by the trustees under the provisions of subsection (4) of section 75-6806 unless the conditions of the endowment instrument require an immediate disbursement of such money. No portion of the endowment fund shall be loaned to the district nor shall any money of such fund be invested in warrants of the district.

Whenever any district has been abandoned, the endowment fund of such abandoned district shall be transferred and placed in the endowment fund in the district to which the territory is attached.

As the custodian of the endowment fund, the county treasurer shall be liable on his official bond for the endowment fund of any district of the county. No later than the first day of July of each school fiscal year, the county treasurer shall account to the trustees of each district on the condition of its endowment fund including the status of the investments that have been made with the money of the fund. The county treasurer shall also include the endowment fund in his reports to the board of county commissioners.

The trustees of any district having an endowment fund shall provide suitable memorials for all persons or associations of persons making gifts to the district which become a part of the endowment fund.

Section 365. Section 75-7401. Definition of pupil instruction. As used in this title, unless the context clearly indicates otherwise:

"Pupil instruction" means the conduct of organized

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instruction of pupils enrolled in public schools while under the supervision of a teacher.

Section 366. Section 75-7402. School fiscal year. The school fiscal year shall begin on the first day of July and end on the last day of June. At least one hundred eighty (180) school days of pupil instruction shall be conducted during each school fiscal year. Any district that fails to provide for at least one hundred eighty (180) school days of pupil instruction shall not be entitled to receive any apportionment of the state interest and income funds. Any such forfeited monies shall be apportioned by the county superintendent to the other elementary districts of his county.

Section 367. Section 75-7403. School day. A school day of pupil instruction shall be at least two (2) hours for kindergartens and all other preschool programs, at least four (4) hours for grades one (1) through three (3), and at least six (6) hours for grades four (4) through twelve (12). The number of hours in a school day may be reduced, in an emergency, with the approval of the board of education.

Section 368. Section 75-7404. Conduct of school on Saturday or Sunday prohibited and exception. Except as provided, pupil instruction shall not be conducted on Saturday or Sunday. In emergencies pupil instruction may be conducted on a Saturday when it is approved by the superintendent of public instruction in accordance with the policies adopted by the board of education.

Section 369. Section 75-7405. Pupil-instruction-related day. A pupil-instruction-related day shall be a day

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of teacher activities devoted to improving the quality of instruction. Such activities may include, but are not limited to, in-service training, attending state meetings of teacher organizations, and conducting parent conferences. A maximum of seven pupil-instruction-related days may be conducted during a school year; provided that such days are approved by the superintendent of public instruction in accordance with the policy adopted by the board of education. Such days shall not be included as a part of the required minimum of one hundred eighty (180) days of pupil instruction.

Section 370. Section 75-7406. School holidays. Pupil instruction and pupil instruction related days shall not be conducted on the following holidays: (1) New Year's day (January 1),

(2) Memorial day (last Monday in May),

(3) Independence day (July 4),

(4) Labor day (first Monday in September),

(5) Veterans' day (fourth Monday in October),

(6) Thanksgiving day (fourth Thursday in November),

(7) Christmas day (December 25),

(8) State and national election days when the school building is used as a polling place and the conduct of school would interfere with the election process at the polling place.

When these holidays fall on Saturday or Sunday, the preceding Friday or the succeeding Monday shall not be a school holiday.

Section 371. Section 75-7407. Commemorative exercises on certain days. All districts shall conduct appropriate

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exercises during the school day on the following commemorative days: (1) Lincoln's birthday (February 12),

(2) Washington's birthday (February 22),

(3) Arbor day (last Friday in April),

(4) Flag day (June 14),

(5) Citizenship day (September 17),

(6) Columbus day (October 12),

(7) Pioneer day (November 1),

(8) Other days designated by the legislature or governor as legal holidays.

When these commemorative days fall on Saturday or Sunday, exercises may be conducted the preceding Friday.

Section 372. Section 75-7501. Standards of accreditation. Standards of accreditation for all schools shall be adopted by the board of education upon the recommendations of the superintendent of public instruction.

Section 373. Section 75-7502. Accreditation of schools. Every school year the conditions under which each elementary school, junior high school, and high school operates shall be reviewed by the superintendent of public instruction to determine each school's compliance with the standards of accreditation. The accreditation status of every school shall then be established by the board of education upon the recommendation of the superintendent of public instruction, and notification of such status for the applicable school year shall be given to each district.

Section 374. Section 75-7503. Instruction in elementary schools. All elementary schools shall be taught in the English language. Instruction shall be given in reading, penmanship, mathematics, language arts, social sciences,

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science, health, physical education, music and art. Instruction may be given in additional subjects when approved by the trustees.

Section 375. Section 75-7504. Instruction in junior high schools and high schools. All junior high schools and high schools shall be taught in the English language. Instruction shall be given in accordance with the requirements of the standards of accreditation adopted by the board of education. Such standards shall require instruction in English, American history, American government, mathematics, science, health and physical education. Instruction may be given in additional subjects when approved by the trustees.

Section 376. Section 75-7505. Maintenance of curriculum guide file and publishing curriculum guides by superintendent of public instruction. The superintendent of public instruction shall collect and maintain a file of curriculum guides to be made available to districts for the use of schools in planning courses of instruction. He may prepare, publish, and distribute curriculum guides for the use of schools in planning courses of instruction. He may solicit the assistance of educators and other qualified persons in the preparation of curriculum guides.

Section 377. Section 75-7506. Instructional assistance by superintendent of public instruction. The superintendent of public instruction shall, at the request of the district or county superintendent, assist the schools with the planning, implementation, operation, and evaluation of instruction through in-service training and individual consultation.

Section 378. Section 75-7507. Kindergarten and pre-

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school programs. The trustees of an elementary school district may establish and operate a free kindergarten or other preschool programs for children between the ages of three (3) and six (6) years. When such kindergarten and preschool programs are established, they shall be an integral part of the elementary school and shall be governed accordingly. Financing of kindergarten and preschool programs shall not be supported by monies available from state equalization aid.

Section 379. Section 75-7508. Private music instruction. Schools may grant credit to pupils completing courses of private music instruction, conducted outside of school hours and at the pupils' own expense. The instruction shall be provided by a teacher holding a valid Montana teacher's certificate with a music endorsement. The district granting such credit shall provide adequate supervision for the instruction and shall determine the allowable credit for such courses.

Section 380. Section 75-7509. Conservation education. Instruction in conservation shall be given in all schools. The scope of the conservation education program shall be approved by the board of education upon the recommendations of the superintendent of public instruction and shall include a wide-spread understanding of conservation facts, principles, and attitudes. Such instruction shall not be a specific course but shall be integrated with the instruction in related courses.

In order to complement the instruction in conservation, the separate units of the university system shall make available to all students in a teacher education program

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basic instruction in conservation education, and shall include instruction in conservation in their community or public service programs.

To further promote conservation education, all districts are encouraged to instruct pupils about the benefits of preserving the forests and the best methods of planting and conserving trees, and by permitting the pupils to assist in planting trees and shrubs on school grounds and elsewhere on Arbor Day.

Section 381. Section 75-7510. Supervised correspondence study. The trustees of any district may provide supervised correspondence study for a pupil when it is impossible for him to attend a school due to the isolation of his residence or his mental or physical incapacity. Supervision of the correspondence course shall be provided by the district superintendent or the county superintendent, if there is no district superintendent.

Section 382. Section 75-7511. State visual, aural and other educational media library. A library of visual, aural and other educational media shall be established and maintained by the superintendent of public instruction. The media shall be selected by the superintendent of public instruction, subject to the approval of the board of education, on the basis of their usefulness as teaching aids and resources for schools and other educational groups within the state, and shall be made available to such schools and groups either on a charge-free loan or on a rental fee basis.

Section 383. Section 75-7512. Definition of adult education. As used in this title, unless the context clear-

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ly indicates otherwise, the term "adult education" means the instruction of persons sixteen (16) years of age or older who are not regularly enrolled, full-time pupils for the purposes of ANB computation. This definition shall not include the instruction in post-secondary vocational-technical centers.

Section 384. Section 75-7513. Authorization to establish adult education program. The trustees of any district or community college district may establish and operate an adult education program at any time of the day when facilities and personnel are available. An adult education program may provide both basic and secondary general education, vocational education, American citizenship education including courses in the English language and American history and government, or any other areas of instruction approved by the trustees.

Section 385. Section 75-7514. Trustees' policies for adult education. The trustees shall adopt such policies as are necessary for the supervision and administration of adult education when a program is established in the district.

Section 386. Section 75-7515. Adult education fund. A separate adult education fund shall be established when an adult education program is operated by a district or community college district. The financial administration of such fund shall comply with the budgeting, financing and expenditure provisions of the laws governing the schools.

Section 387. Section 75-7516. Adult education tuition and fees. The trustees of a district or community college district shall have the authority to charge tuition for

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instruction and to charge fees for the use of equipment and materials. The amount of such tuition and fees shall be determined on a per-course basis or on the basis of the cost of the entire adult education program. All proceeds from tuition and fees shall be deposited in the adult education fund.

Section 388. Section 75-7517. School library required. The trustees of each district shall establish and maintain a school library in each school of the district. Each school library shall comply with at least the minimum requirements of the standards of accreditation adopted by the board of education.

Section 389. Section 75-7518. Trustees' policies for school library. The trustees shall adopt those policies necessary for regulating the use and operation of school libraries. These policies may provide for the use of school libraries by the residents of the district; provided that such use does not interfere with the regular school use of the library.

Section 390. Section 75-7519. School library book selection. School library books shall be selected by the district superintendent, or a principal if there is no district superintendent, subject to the approval of the trustees. In districts not employing a superintendent or principal, the trustees shall select the school library books on the basis of recommendations of the county superintendent.

Section 391. Section 75-7520. Reporting school library information. The trustees shall report school library information requested by the superintendent of

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public instruction, by the board of education, or, when there is no district superintendent or principal, by the county superintendent.

Section 392. Section 75-7521. Sectarian publications prohibited and prayer permitted. No publication of a sectarian or denominational character shall be used or distributed in any school or be included in the school library. Instruction shall not be given in sectarian or denominational doctrines. However, any teacher, principal, or superintendent may open the school day with a prayer.

Section 393. Section 75-7601. Definitions. As used in this title, unless the context clearly indicates otherwise:

"Textbook" means a book or manual used as a principal source of study material for a given class or group of students.

"Textbook dealer" means any party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state of Montana.

Section 394. Section 75-7602. Free textbook provisions. The trustees of each district shall provide free textbooks to the public school pupils of the district. The trustees shall purchase such textbooks at the expense of the district and loan them to such pupils free of charge, subject to the textbook damage policy of the trustees. For the purpose of this section only, "textbooks" shall not include those books or manuals which are rendered unusable as a result of having pages designed to be written upon or removed during the course of the study they serve. When

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the parent of a pupil attending a school of the district so request, such textbooks shall be sold to them at cost.

Section 395. Section 75-7603. Textbook selection and adoption. Textbooks shall be selected by the district superintendent or by the school principal, if there is no district superintendent. Such selections shall be subject to the approval of the trustees. In districts not employing a district superintendent or principal, the trustees shall select and adopt the textbooks on the basis of recommendations of the county superintendent.

Section 396. Section 75-7604. Textbooks obtained from licensed textbook dealer. Textbooks selected and adopted by districts shall be obtained from a licensed textbook dealer. Copies of such textbooks shall be on file in the textbook library maintained by the superintendent of public instruction.

Section 397. Section 75-7605. Licensing textbook dealers. Textbook dealers shall be licensed to sell textbooks by the superintendent of public instruction. To obtain a license a textbook dealer shall first file with the superintendent of public instruction his written agreement: (1) to file with the superintendent of public instruction copies of all textbooks to be offered for sale or adoption;

(2) to guarantee that textbooks shall be supplied to any district at the listed, uniform sales prices in effect for schools when the textbooks are filed; except, that such prices may be reduced in accordance with this section;

(3) to guarantee that, at no time, shall any textbook sale price in Montana be a larger amount than the sale price to schools anywhere else in the United States

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under similar conditions of transportation and marketing; and

(4) to reduce automatically the listed, uniform sales price to schools whenever reductions of these prices are made anywhere in the United States.

Textbook dealers filing the written agreement with the superintendent of public instruction shall also file a surety bond with the secretary of state. The surety bond shall run to the state of Montana and be conditioned on the faithful performance of all duties imposed upon textbook dealers for the purpose of regulating the supply of textbooks to districts. The amount of the surety bond shall be set by the superintendent of public instruction and shall be not less than two thousand dollars ($2,000) but not more than ten thousand dollars ($10,000). The bond shall be approved by the attorney general. It shall be the responsibility of the textbook dealer to maintain the surety bond on a current basis.

When the textbook dealer has complied with the written agreement and surety bond requirements for licensing, the superintendent of public instruction shall issue a license to the textbook dealer.

Section 398. Section 75-7606. Filing textbooks with superintendent of public instruction. Licensed textbook dealers shall file a copy of all textbooks, that are offered for sale or adoption to districts, in the textbook library maintained by the superintendent of public instruction. When a copy of a textbook is filed, it shall be accompanied by a sworn statement of the listed, uniform sale price in effect for schools, F.O.B. the shipping point.

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Special or abridged editions of any books on file with the superintendent of public instruction which are supplied outside of Montana at a lower price than the price of the edition filed with the superintendent of public instruction, shall be made available to districts in Montana. The offering for sale or adoption of such special or abridged editions shall be subject to the same textbook filing requirement as any other textbook.

The fee for filing textbooks with the superintendent of public instruction shall be two dollars ($2) for each textbook. Where several textbooks are filed by a licensed textbook dealer in the same subject and with the same series head for any one grade, the maximum fee shall be six dollars ($6). Such monies shall be deposited in the state treasury to the credit of the state general fund.

The filing of a textbook shall expire ten (10) years after the date of its filing. Textbooks may be refiled in accordance with the filing and fee payment provisions of this section.

Section 399. Section 75-7607. Notification and processing of complaint against a licensed textbook dealer. It shall be the duty of any district or county superintendent to notify the superintendent of public instruction whenever it is ascertained that a licensed textbook dealer is:

(1) offering to supply textbooks not filed with the superintendent of public instruction;

(2) offering to sell textbooks at a higher price than the listed, uniform sales price filed with the superintendent of public instruction;

(3) offering to sell textbooks at a higher shipping

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point price than the shipping point price of the same textbooks distributed elsewhere in the United States;

(4) supplying textbooks inferior to the samples on file with the superintendent of public instruction; or

(5) in any other way, performing contrary to the laws regulating the offering of textbooks for sale or adoption to districts.

Upon receipt of such notification from the district or county superintendent, the superintendent of public instruction shall notify the appropriate licensed textbook dealer of the complaint. Once the superintendent of public instruction has found that the licensed textbook dealer has violated any provision of this section and he fails to rectify his error within thirty (30) days of the notification of the finding of a violation, he shall forfeit his surety bond. The attorney general, upon written request of the superintendent of public instruction, shall proceed to collect by legal action the full amount of the surety bond. Any amount so recovered shall be paid into the state public school equalization aid account.

Section 400. Section 75-7608. Penalty for doing business without textbook dealer's license. Any textbook dealer who shall sell, or offer for sale or adoption a textbook to any district or county superintendent without first obtaining a textbook license from the superintendent of public instruction shall be guilty of a misdemeanor. Upon conviction of such misdemeanor, he shall be fined not less than five hundred dollars ($500) or more than two thousand dollars ($2,000).

Section 401. Section 75-7609. Penalty for restricting

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competition. At any time a licensed textbook dealer enters into any understanding, agreement or combination to control textbook prices or otherwise restrict competition in the sale of textbooks, he shall forfeit his surety bond and textbook dealer's license. The attorney general shall institute and prosecute legal proceedings for the forfeiture of the surety bond of such licensed textbook dealer and for revocation of his textbook dealer's license.

Section 402. Section 75-7610. Penalty for offer or acceptance of emoluments or other inducements. No textbook dealer nor his agent shall offer any emolument or other inducement to any trustee or school employee to influence the selection, adoption or purchase of textbooks.

No trustee, county superintendent or school employee shall accept any emolument or other inducement from a textbook dealer or agent of such dealer for the use of his influence in the selection, adoption or purchase of textbooks.

The violation of any provisions of this section shall constitute a misdemeanor. In addition, any trustee, county superintendent or school employee convicted of such misdemeanor shall be removed from his position.

Nothing in this section shall be construed to prevent the supplying of a necessary number of sample textbooks for the purpose of examination by school officials or school employees.

Section 403. Section 75-7611. Listing of textbooks on file with superintendent of public instruction. By May first of each year, the superintendent of public instruction shall supply a list of the textbooks then on file in his office to all districts and county superintendents. The list shall

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show the textbook title and its listed, uniform sales price. Textbooks may be excluded from the list: (1) at the written request of the licensed textbook dealer:

(2) after the textbook has been listed on ten annual listings; or

(3) when the licensed textbook dealer's surety bond is no longer in effect.

Section 404. Section 75-7701. Definitions. As used in this title, unless the context clearly indicates otherwise:

"Vocational education" means the instruction to prepare or improve the pupil for gainful employment that does not require a baccalaureate or higher degree. This definition of vocational education shall include guidance and prevocational, related or technical instruction necessary to prepare the pupil for further vocational education or for entry into employment.

"Post-secondary vocational-technical education" means vocational-technical education of post-secondary vocational-technical pupils which is conducted by a post-secondary vocational-technical center or other programs as designated by the board of education. Post-secondary vocational-technical education shall include the 13th and 14th year and beyond but will not include work toward a baccalaureate degree.

"Post-secondary vocational-technical pupil" means a person who has completed or left school, is at least sixteen (16) years of age, and is available for study in preparation for entering the labor market, for re-entering the labor market, or for employment stability or advancement in employ-

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ment.

"Post-secondary vocational-technical center" means a school used principally for the provision of post-secondary vocational-technical education to persons who qualify as post-secondary vocational-technical pupils. These centers are designated by the board of education upon direction by the legislature. All other public or private schools are hereby prohibited from using this title.

Section 405. Section 75-7702. Duties of board of education. The board of education shall be the governing board of the state of Montana for vocational education. The board of education shall adopt policies to effect the orderly development of a system of vocational education that is adaptable to changing needs, controlled to prevent unnecessary duplication, coordinated with federal guidelines and requirements for vocational education, and funded to insure growth and quality programming. In order to accomplish the orderly development of a system of vocational education, the board of education policies shall include: (1) a state plan for such development;

(2) standards for vocational education courses and programs;

(3) instructor qualifications for vocational education courses and programs;

(4) criteria for approval of vocational education courses and programs which are to receive financial assistance;

(5) a basis for apportionment of all monies appropriated by the legislature for vocational education in accordance with the intent of the legislature as reflected in

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the terms of the appropriation;

(6) a basis for apportionment of all monies received by the state of Montana for vocational education from the federal government in accordance with the acts of Congress;

(7) a system of evaluation of vocational education which allows for consideration of the current and projected manpower needs and job opportunities; and

(8) any other policy not inconsistent with public law and which is necessary for the proper operation of a system of vocational education.

Section 406. Section 75-7703. Duties of superintendent of public instruction as executive officer. The superintendent of public instruction shall be the executive officer of the board of education for the administration of all state and federal laws related to vocational education. As the executive officer, the superintendent of public instruction shall: (1) administer the vocational education policies adopted by the board of education;

(2) prepare curriculum guides for board of education adoption;

(3) employ, with the confirmation of the board of education, the professional staff necessary for the state supervision and administration of vocational education;

(4) report the status of vocational education in the state of Montana when requested by the board of education;

(5) keep all vocational education records in his office; and

(6) provide vocational education supervisory and consultative assistance to districts.

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Section 407. Section 75-7704. District authorization to establish and maintain vocational education courses and programs. The trustees of any district, community college district, or unit of the Montana university system may establish and maintain a vocational education course or program that complies with the vocational education standards adopted by the board of education. In order for a course or program to be eligible for state or federal financing, it shall be approved by the board of education.

Section 408. Section 75-7705. Acceptance of acts of congress for vocational education. The state of Montana hereby reaffirms the acceptance of and assents to the terms and provisions of the act of Congress entitled "The Vocational Education Act of 1963" and the "Vocational Education Amendments of 1968," and further hereby accepts and assents to the terms and provisions of all acts of the Congress amendatory of "The Vocational Education Act of 1963," and to the terms and provisions of all other acts of Congress which provide funds for the benefit of vocational education in Montana.

Section 409. Section 75-7706. State treasurer custodian of vocational education monies. The treasurer of the state of Montana is hereby designated as the custodian of all federal and state monies designated, appropriated or apportioned for vocational education. All monies received from any federal or state source for the establishment, operation or furtherance of vocational education in the state shall be deposited with the state treasurer. At the direction of the board of education, he shall disburse all monies appropriated or received for vocational education.

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Section 410. Section 75-7707. Post-secondary vocational-technical center designation. Post-secondary vocational-technical centers shall be designated by the board of education only upon direction of the legislature. Applications for designation must be made in accordance with the following procedure: (1) The trustees of any high school district, of a county high school, of a community college district, or the governing board of any unit of the Montana university system may submit an application for designation of a post-secondary vocational-technical center to be operated by such trustees or governing board. The application for designation shall be submitted in accordance with the time, data and form requirements prescribed by the board of education. Applicant high school districts, county high schools, or community college districts shall be located in a county with a taxable valuation of at least forty-five million dollars ($45,000,000).

(2) Applications are to be presented to the superintendent of public instruction acting in his capacity as the executive officer for vocational education of the board of education. The superintendent of public instruction shall review the application and present it to the board of education along with his recommendations. The board of education shall then examine the application and recommendations of the superintendent of public instruction and either adopt the recommendations of the superintendent of public instruction or draft its own recommendations. The application, together with all recommendations shall be presented by the board of education to the next following legislative assembly.

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The board of education shall recognize the presently designated post-secondary vocational-technical centers operated by the respective board of trustees of school district number 1 of Silver Bow county, high school district number 1 of Lewis and Clark county, high school district "A" of Cascade county, Missoula County High School, and high school district number 2 of Yellowstone county.

Section 411. Section 75-7708. Program and budget categories for post-secondary vocational-technical education centers. The board of education shall have the sole authority for the approval of the post-secondary vocational-technical education programs and their budgets. Such programs and budgets shall be placed into three categories defined as: (1) Maintenance and operation. The maintenance and operation category shall include programs and costs for instruction; vocational guidance and counseling; job placement; travel of pupils and personnel while engaged in a program; acquisition, maintenance, and repair of equipment; and the rental of necessary emergency facilities for not more than one year.

(2) Construction. The construction category shall include the program and cost for construction of new buildings; acquisition, expansion, remodeling and alteration of existing buildings; site acquisition and improvements; architectural fees; and the purchase of initial equipment.

(3) Ancillary services. The ancillary services category shall include the program and cost for the services and activities necessary to assure quality in the post-secondary vocational-technical center's instruction, such as supervision and administration of the center, program evalua-

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tion, special demonstration and experimental programs, and development of instructional materials and curriculum.

The trustees of the designated district or other governing board where the post-secondary vocational-technical center is located shall submit program proposals and the related budgets on the basis of these categories and in accordance with the program and budget approval procedure prescribed by the board of education.

Section 412. Section 75-7709. Sources of financing for post-secondary vocational-technical center budgets and board of education administration. The total of the budgets approved by the board of education together with the budget for the cost of state administration of the post-secondary vocational-technical centers shall constitute the total maximum approved, statewide budget which shall be financed as follows: (1) The primary source of financing is to be those funds specifically designated by legislative enactment or referendum by the people for financing post-secondary vocational-technical education in Montana.

(2) The board of county commissioners of each county in which a designated post-secondary vocational-technical center is located is hereby authorized to levy a tax of not to exceed one (1) mill on the dollar of all taxable property, real and personal, within the county for the support and maintenance of the post-secondary vocational-technical center located within the said county.

(3) Designated post-secondary vocational-technical centers shall be eligible to receive such funds from the federal government as the board of education may provide pursuant to applicable acts of Congress.

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(4) If the aggregate financing provided by the above sources of revenue does not provide one hundred per cent (100%) financing of the maximum approved, statewide budget, the remaining deficiency shall be financed from any state funds appropriated by the legislature for post-secondary vocational-technical education.

The board of education shall direct the distribution of the funds specified in subsections (1), (3), and (4) of this section on the basis of the budgets approved by the board of education. The funds earned by the mill levy specified in subsection (2) of this section shall be credited by the county treasurer to the post-secondary vocational-technical center fund.

The board of education shall determine the amount of financing available from these four sources of revenue and may approve budgets for maintenance and operation, construction and ancillary services. The aggregate amount of the budgets so approved by the board of education for post-secondary vocational-technical centers shall not exceed the monies determined to be available.

Section 413. Section 75-7710. Local administration. The trustees or governing board of a post-secondary vocational-technical center shall administer such center according to the requirements of the laws of the state of Montana, the policies of the board of education, and the regulations of the superintendent of public instruction. If, in construing such laws, there is a conflict between the laws providing for post-secondary vocational-technical centers and any other laws governing the operation of schools, the former shall have the controlling authority.

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Section 414. Section 75-7711. Exception to school calendar. The post-secondary vocational-technical center shall not be required to conform to the 180 day school calendar so that programs shorter or longer than this calendar may be offered.

Section 415. Section 75-7712. Admission of pupils with priority to Montana residents. Any person who qualifies as a post-secondary vocational-technical pupil as defined in this act shall be admitted to the post-secondary vocational-technical center of his choice except that pupils who qualify as residents of the state of Montana as hereafter defined shall be given priority in case enrollment limitations are caused by resource limitation.

Section 416. Section 75-7713. Waiver of tuition for Montana residents and setting nonresident tuition rates. Tuition shall not be charged to any resident of the state of Montana by the governing board of any post-secondary vocational-technical center. However, nonresidents may be charged tuition at rates to be determined by the board of education. For the purposes of this section the eligibility of a student for resident status shall be determined in the same manner as that prescribed for use by the Montana university system, except that those provisions referring to "high school graduates" or "graduation from high school" shall be considered to refer to a person who has attended school or who was in attendance at a school.

Section 417. Section 75-7714. Pupil fees and disposition of collected fees. Fees for the use of equipment and material used in instruction may be charged by the trustees or other governing board of the post-secondary vocational-

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technical center. The board of education shall prescribe the basis and limitations for the charging of such fees.

Fees collected by the post-secondary vocational-technical center shall be deposited with the county treasurer in the fund designated by the superintendent of public instruction for the receipt of such fees. The expenditure of the fees shall not be subject to budget limitations and shall be in addition to the program budgets approved by the board of education.

Section 418. Section 75-7715. Lease or purchase of state property for post-secondary vocational-technical center purposes. The state of Montana, acting by and through the board of education, is hereby empowered and authorized to enter into a lease agreement for a term not to exceed forty (40) years, in order to lease to a district operating a post-secondary vocational-technical center any building or lands owned by the state and financed in whole or in part by an appropriation made by the legislature of the state of Montana for the purpose of supporting the district's post-secondary vocational-technical center. The consideration necessary to support such a lease may be nominal.

The board of education is hereby authorized to transfer, or direct transfer of, title held by the state of Montana in buildings or lands financed in whole or in part by an appropriation by the state legislature, to a district operating a post-secondary vocational-technical center, at any time the board of education deems such transfer to be in the best interests of both the state and the district involved, provided that this authorization extends only to

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buildings or lands which are to be used by the district for post-secondary vocational-technical education purposes.

Section 419. Section 75-7801. Definitions. As used in this title, unless the context clearly indicates otherwise:

"Special education" means the type of instruction requiring special facilities or programs for mentally retarded or physically handicapped children.

A "mentally retarded child" means any child who is not capable of profiting from the regular instruction of a school because his mental ability is substantially below the mental ability of an average child of the same age. Mentally retarded children are classified as follows:

(a) An "educable mentally retarded child" means a child who, at maturity, cannot be expected to attain a level of intellectual functioning greater than that commonly expected of an eleven-year-old child, but not less than that of a seven-year-old child.

(b) A "trainable mentally retarded child" means a child who, at maturity, cannot be expected to attain a level of intellectual functioning greater than that commonly expected of a seven-year-old child and, for entrance into a training program, is capable of walking, of clean body habits, and of obedience to simple commands.

(c) A "custodial mentally retarded child" means a child who does not show a likelihood of attaining clean body habits, responsiveness to directions, or means of intelligible communication.

A "physically handicapped child" means a child who is capable of profiting from the regular instruction with the

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assistance of special equipment, special services, or transportation to compensate for physical disabilities such as, but not limited to, cardiac impairment, cerebral palsy, chronic health problems, or inadequate speech, hearing or vision.

Section 420. Section 75-7802. Conduct of special education to comply with board of education policies. The conduct of special education programs shall comply with the policies recommended by the superintendent of public instruction and adopted by the board of education. These policies may include, but are not limited to, regulation of class size, class grouping, curriculum, methods of instruction, teacher qualifications, distances of travel to classes or programs, necessary equipment and other special services.

Section 421. Section 75-7803. Duties of superintendent of public instruction. The superintendent of public instruction shall supervise and coordinate the conduct of special education in the state by: (1) recommending to the board of education for adoption of those policies necessary to establish a planned and coordinated program of special education in the state;

(2) administering the policies adopted by the board of education;

(3) certifying special education teachers on the basis of the special qualifications for such teachers as prescribed by the board of education;

(4) discovering through observation, examination or testing the children in the state who are in need of special education;

(5) determining the type of instruction required by

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children needing special education and preparing appropriate curriculum guides for such instruction;

(6) seeking appropriate medical, psychiatric, and psychological assistance from the state department of health and other public agencies in diagnosing the special education needs of children, in planning programs, and in admitting and discharging children from such programs;

(7) recommending to districts the type of special education class or program needed to serve the special education children of such district;

(8) approving, as they are established or proposed and annually thereafter, those special education classes or programs which comply with the laws of the state of Montana, policies of the board of education, and the regulations of the superintendent of public instruction;

(9) providing supervision for and consulting with district superintendents, principals, teachers and trustees;

(10) conducting conferences, offering advice and otherwise cooperating with parents and other interested persons; and

(11) acting as the coordinating agency with federal agencies, other state agencies, political subdivisions of the state, and private bodies on matters concerning special education, reserving to the other agencies and political subdivisions their full responsibilities for other aspects of the care of children needing special education.

Section 422. Section 75-7804. Cooperation of state agencies. The state department of health, the department of institutions, and the state school for the deaf and blind shall assist the superintendent of public instruction

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in discovering children in need of special education, in determining the type of special education for these children, and in generally supervising and coordinating special education in the state. Nothing herein shall be construed to interfere with the purpose and function of these state agencies.

Section 423. Section 75-7805. Mandatory establishment of special education class. The trustees of any district shall establish and maintain at least one applicable special education class when there are ten (10) or more educable mentally retarded children in the district and at least one (1) applicable special education class when there are ten (10) or more physically handicapped children in the district.

Section 424. Section 75-7806. Discretionary establishment of special education class or program. The trustees of any district may establish and maintain a special education class or special education program for: (1) four (4) or more educable mentally retarded children;

(2) four (4) or more physically handicapped children;

(3) four (4) or more trainable mentally retarded children;

(4) individual children requiring special education such as home or hospital tutoring, school-to-home telephone communication, or other individual programs; or

(5) educable mentally retarded children or physically handicapped children under the age of six (6) years of age when the superintendent of public instruction has determined that such programs will:

(a) assist a child to achieve levels of competence

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that will enable him to participate in the regular instruction of the district when he could not participate without special education;

(b) permit the conservation or early acquisition of skills which will provide the child with an equal opportunity to participate in the regular instruction of the district; or

(c) provide other demonstrated educational advantages which will materially benefit the child.

Section 425. Section 75-7807. Petition of parents for establishment of special education class or program. The parents of four (4) or more children needing special education of one type of educable mentally retarded children or physically handicapped children may petition the trustees to establish a special education class or program. Parents residing in several contiguous districts may petition the trustees of each district to cooperatively establish a special education class or program of one type for four (4) or more children. The interlocal cooperative agreement authorized in chapter 49 of title 16, R.C.M., 1947, shall be used to establish a multi-district special education class or program.

Section 426. Section 75-7808. Providing tuition in lieu of a special education class or program. In lieu of providing special education in the district, the trustees may arrange for the attendance of a child in need of special education in a special education class or program approved by the superintendent of public instruction and offered in another district within the state of Montana. Attendance at such a class or program shall be approved or

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disapproved in accordance with the laws governing the attendance of pupils in schools outside of the district.

Whenever a child resides in one elementary district but has approval to attend a special education class or program of another Montana elementary district, the district in which the child resides shall pay the tuition to the elementary district operating the class or program in the same manner as, but at twice the tuition rate, prescribed in section 75-7201 for the payment of tuition.

Whenever a child has approval to attend a special education class or program of a Montana high school district outside his county of residence, the county in which the child resides shall pay the tuition to the high school district operating the class or program in the same manner as, but at twice the tuition rate, prescribed in section 75-6317 for the payment of tuition.

Section 427. Section 75-7809. Out-of-state tuition for special education children. The trustees of any district may arrange for the attendance of a child in need of special education in a special education class or program offered outside of the state of Montana. Attendance at such a class or program shall be approved or disapproved by the trustees and the county superintendent for elementary classes or programs, or by the county superintendent for high school classes or programs. Such approvals shall not be subject to the out-of-state attendance provisions of the laws governing the attendance of pupils in schools outside the state of Montana.

Whenever the attendance of a child at an out-of-state special education class or program is approved, the

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officials authorized to approve such attendance may negotiate the amount and manner of payment of tuition. The budgeting provisions of sections 75-7203 and 75-6317 shall apply to these payments of out-of-state tuition.

Section 428. Section 75-7810. No tuition when attending a state institution. When a child is attending an institution supported solely by funds of the state of Montana, the resident district or county shall not be required to pay tuition for such child.

Section 429. Section 75-7811. Determination of need for special education and approval of classes and programs by superintendent of public instruction. The determination of the children requiring special education and the type of special education needed by these children shall not be the responsibility of the trustees but shall be the responsibility of the superintendent of public instruction. Whenever the trustees of any district intend to establish a special education class or program, they shall apply for approval of the class or program by the superintendent of public instruction. The superintendent of public instruction shall approve or disapprove the application for the special education class or program on the basis of its compliance with the laws of the state of Montana, the special education policies adopted by the board of education, and the regulations of the superintendent of public instruction. No special education class shall be operated by the trustees without the approval of the superintendent of public instruction. Each special education class or program must be approved annually.

Section 430. Section 75-7812. Exclusion of children

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from special education class or program. No mentally retarded child or physically handicapped child shall be excluded from an approved special education class or program unless: (1) the enrollment of the class is the maximum amount approved by the superintendent of public instruction; or

(2) the child's intellectual ability, age, or behavior pattern is not compatible with the class, as determined by the superintendent of public instruction with assistance of appropriate medical, psychiatric, or psycoloigical advice.

In the event a child is excluded under subsection (2), the trustees shall notify the local welfare department and the proper authorities of the department of institutions who shall be charged with the responsibility for providing adequate protection and care, in keeping with available facilities, so far as the parents are willing to accept such services.

Section 431. Section 75-7813. Financial assistance for operation of special education class or program. When a special education class or program has been approved, the following provisions shall govern the computation of the financial assistance to which the operating district is entitled: (1) In establishing the amount of the maximum-general-fund-without-a-vote, the ANB shall be:

(a) forty-five (45) for a mentally retarded or physically handicapped class of seven (7) or more children;

(b) six (6) per child for a mentally retarded or physically handicapped class of not more than six (6) children but not less than four (4) children; or

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(c) determined from an ANB schedule prepared by the superintendent of public instruction for all other types of special education classes and programs. The ANB schedule shall be based on the time required and the degree of special education provided and shall not allow more than six (6) ANB for each special education child.

(2) Whenever a new special education class or program is to be offered for the first time in the ensuing year and has been approved by the superintendent of public instruction prior to the adoption of the preliminary budget, an ANB based upon the estimated number of children to be enrolled in such class and determined according to the provisions in subsection (1) of this section may be used for the establishment of the foundation program and the permissive levy for the ensuing year.

(3) When a pupil is enrolled for less than a school year in an approved special education class or program, the district operating the class or program shall compute the ANB in the manner provided by the superintendent of public instruction.

Section 432. Section 75-7814. Special education child eligibility for transportation. With the approval of the superintendent of public instruction, any special education child shall be eligible for transportation when: (1) he is enrolled in a special education class or program operated by the district of such child's residence;

(2) he is enrolled under an approved tuition agreement in a special education class or program operated by a Montana district other than the child's resident district; or

(3) he is enrolled under an approved tuition agreement

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in a special education class or program operated outside of the state of Montana.

Section 433. Section 75-7815. State transportation reimbursement for special education children. Districts providing children with transportation to a special education class or program and complying with the special education transportation regulations promulgated by the superintendent of public instruction shall be eligible for a transportation reimbursement. The reimbursement shall be calculated from a schedule established by the superintendent of public instruction with the state providing two-thirds (2/3) of the reimbursement and the county in which the children reside providing the remainder.

Section 434. Section 75-7816. Financial assistance for under six year old special education class or program. Any district operating an approved special education class or program for children under the age of six years shall be eligible for financial assistance in accordance with section 75-7813 and for transportation reimbursement under section 75-7815.

Section 435. Section 75-7901. Definitions. As used in this title, unless the context clearly indicates otherwise:

"Traffic education" means instruction in the motor vehicle laws, in the acceptance of personal responsibility on the public highways, in the causes and consequences of traffic accidents, and in the skills necessary for the safe operation of motor vehicles.

"Traffic education course" means a course of traffic education which has been approved by the superintendent of

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public instruction.

"Teacher of traffic education" means an instructor approved by the superintendent of public instruction to teach traffic education.

"Traffic education account" means the state treasury account in the earmarked revenue fund for the deposit and disbursement of state traffic education revenue.

Section 436. Section 75-7902. State traffic education account and proceeds earmarked for the account. There is hereby established a traffic education account in the treasury of the state of Montana. There shall be paid into this account a portion of the fines assessed and bails forfeited on all offenses involving a violation of a state statute or a city ordinance relating to the operation or use of motor vehicles, except offenses relating to parking of vehicles, in the following amounts: (1) where a fine is imposed, twenty per cent (20%) of the fine imposed;

(2) where multiple offenses are involved, twenty per cent (20%) of the total sum of all fines imposed;

(3) where a fine is suspended, in whole or in part, the portion paid to the traffic education account shall be twenty per cent (20%) of the fine actually paid; and

(4) when any deposit of bail is made for an offense to which this section applies and the bail is forfeited, twenty per cent (20%) of the forfeited bail.

Five per cent (5%) of all monies received by the state of Montana from the collection of the motor vehicle driver's license fee provided for under the laws of Montana shall be contributed to the traffic education account.

Section 437. Section 75-7903. Transmittal of proceeds

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from fines and other sources. The portion of the proceeds from fines and bail forfeitures which are to be deposited in the traffic education account shall be transmitted to the city or county treasurer, as the case may be, by the court collecting them, in the manner and at the times that fines and bail forfeitures are transmitted to such treasurers under law. The court shall indicate what portion of each fine is to be credited to the traffic education account. The city and county treasurers shall transmit monthly to the state treasurer, without deduction, the portions of the fines received which are to be credited to the traffic education account.

When a court is required to transmit fees, fines, and forfeitures directly to the state treasurer, the gross proceeds including the portion of the fines to be credited to the traffic education account shall be transmitted to the state treasurer and the appropriate portion shall be deposited in the traffic education account.

Section 438. Section 75-7904. Duties of superintendent of public instruction. The superintendent of public instruction shall: (1) develop, administer, and supervise the program of instruction in traffic education;

(2) establish basic course requirements in classroom instruction and behind-the-wheel instruction for traffic education;

(3) establish the classroom instruction and the behind-the-wheel instruction qualifications for a teacher of traffic education;

(4) approve teachers of traffic education when such teachers are qualified;

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(5) establish criteria for traffic education course approval based on the basic course requirements, teacher of traffic education qualifications, and the requirements of law;

(6) approve traffic education courses when such courses meet the criteria for approval;

(7) promulgate a policy for the distribution of the traffic education monies to approved traffic education courses and annually order the distribution of the proceeds of the traffic education account in the manner required by law; and

(8) assist districts with the conduct of traffic education.

Section 439. Section 75-7905. District establishment of traffic education program. The trustees of any district operating a junior high school or high school may establish and maintain a traffic education course. The traffic education course shall be: (1) for students who are fifteen (15) years old or older or will have reached their fifteenth (15th) birthday within six (6) months of the course completion;

(2) taught by a teacher of traffic education;

(3) conducted in accordance with the basic course requirements established by the superintendent of public instruction; and

(4) taught during regular school hours, after regular school hours, on Saturdays, or as a summer school course, at the option of the trustees.

Section 440. Section 75-7906. Annual allocation and distribution of traffic education account proceeds, and

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allocation for state administration. The superintendent of public instruction shall annually order the distribution of all monies in the traffic education account to the districts conducting approved traffic education courses. The distribution of the traffic education monies shall be based on the distribution policy promulgated by the superintendent of public instruction; provided that the reimbursements to districts shall be based upon the number of pupils, who in a given school fiscal year, complete an approved traffic education course including both the classroom instruction and behind-the-wheel driving.

Before such fund is disbursed, there shall be deducted an amount necessary to provide for the state administration of the traffic education program by the superintendent of public instruction. Such state administration may include development, printing, and distribution of essential materials; preparation of teachers of traffic education; state supervision of the program; and any and all other activities deemed necessary by the superintendent of public instruction. The amount deducted shall not exceed twenty-four thousand dollars ($24,000) annually.

Section 441. Section 75-7907. District traffic education fund. The trustees of any district maintaining a traffic education course shall establish a special nonbudgeted fund with the county treasurer for traffic education. The state traffic education reimbursement and all nontax receipts for traffic education shall be deposited in the district's traffic education fund. The expenditure of the monies deposited in the district's traffic education fund shall not be subject to the budgeting provisions of this

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title and may be expended for traffic education.

Section 422. Section 75-8001. Definition. As used in this title, unless the context clearly indicates otherwise, "school food services" means a service of providing food for the pupils of a district on a non-profit basis, and shall include any food services financially assisted through funds or commodities provided by the United States government.

Section 443. Section 75-8002. Acceptance, expenditure and administration of federal school food services monies. The superintendent of public instruction is authorized to accept and direct the disbursement of funds appropriated by act of congress and apportioned to the state for use in financing school food services. This authorization shall apply to federal funds available for school food services under the National School Lunch Act (Public Law 396, 79th Congress, chapter 281, 2nd Session), Child Nutrition Act of 1966 (Public Law 642, 89th Congress), any amendments to these public laws, and any other public laws enacted to provide assistance for school food services.

The superintendent of public instruction shall deposit all federal funds for school food services with the state treasurer who shall credit such funds to the federal and private grant clearance fund. Any disbursement of the federal school food services funds shall be directed by the superintendent of public instruction.

The superintendent of public instruction may: (1) enter into agreements and cooperate with any federal agency, district, or other agency or person, prescribe such regulations, employ such personnel, and take such other action as

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he may deem necessary to:

(a) provide for the establishment, operation, and expansion of school food services; and

(b) disburse federal and state funds according to the requirements of federal and state law;

(2) give technical advice and assistance to any district establishing or operating school food services and assist in the training of personnel for such services;

(3) accept any gift for use in providing school food services;

(4) conduct studies of methods of improving and expanding school food services and appraise the nutritive benefits of school food services.

The superintendent of public instruction shall report annually to the board of education on the financial, administrative, and operational phases of school food services.

Section 444. Section 75-8003. Records, reports, reviews and audits. The superintendent of public instruction shall prescribe regulations for keeping the financial and commodity records and making reports on school food services operated by a district. The financial records shall always be available for inspection and audit by federal and state officials authorized by law or contract to perform audits and shall be preserved for such period of time, not to exceed five (5) years, as the superintendent of public instruction may prescribe.

The superintendent of public instruction shall conduct or cause to be conducted the audits, inspections, and administrative reviews of the financial records and the opera-

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tion of school food services.

Section 445. Section 75-8004. School food commodities. The superintendent of public instruction is authorized to accept food commodities from the federal government and to distribute the food commodities to any district or non-public school that contracts for such distribution. The superintendent of public instruction may use for the shipping, handling, and other related costs of distributing the food commodities, any funds advanced by legislative appropriation for the commodity revolving account. Such distribution costs shall be reimbursed by the participating districts and non-public schools. Those reimbursements shall be returned to the fund from which payments for the distribution costs were made.

Section 446. Section 75-8005. Duties of trustees. The trustees of any district offering school food services may: (1) enter into contracts with the superintendent of public instruction for the purpose of obtaining funds, supplies and equipment, food commodities, and facilities necessary for the establishment, operation, and maintenance of the school food services;

(2) sell food to the pupils and adults participating in the school food services in accordance with the policies of the superintendent of public instruction;

(3) accept any gift for use of the school food services;

(4) allocate federal funds received in lieu of property taxation to the school food services fund in accordance with the provisions of section 75-8006; and

(5) adopt such policies for the operation of school

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food services as are consistent with the regulations of the superintendent of public instruction and with the laws of Montana.

When the trustees of any district offer school food services, they shall establish a school food services fund for the deposit of proceeds from the sale of food, gifts and other monies specified in this section and for the expenditure of such monies in support of the school food services.

Section 447. Section 75-8006. Allocation of federal funds to school food services fund for federally connected, indigent pupils. The trustees of any school district receiving federal reimbursement in lieu of taxes may request the allocation of a portion of such federal funds to the school food services fund to provide free meals for federally-connected, indigent pupils when the pupils are declared eligible. In granting the request, the county superintendent shall comply with the following procedures: (1) The indigency must be certified by the county department of welfare, assisted by a committee of three (3) composed of the county superintendent, a representative of the county health department, and an authorized representative of the district;

(2) A certified, detailed claim for the amount of the federal reimbursement in lieu of taxes that is to be allocated to the school food services fund shall be filed by the district with the county superintendent. The county superintendent shall confirm or adjust the amount of the claim by:

(a) determining that the pupils included on the claim

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have been declared indigent under subsection (1);

(b) determining the number of meals provided the indigent pupils by the school food services;

(c) determining the price per meal charged the nonindigent pupil; and

(d) multiplying the number of meals provided to indigent pupils by the price per meal.

(3) After the county superintendent's confirmation or adjustment of the claim, he shall notify the district and the county treasurer of the approved amounts for allocation to the school food services fund. The district shall deposit the approved amount in the school food services fund on receipt of the succeeding federal payment in lieu of taxes.

Section 448. Section 75-8101. Definition. As used in this title, unless the context clearly indicates otherwise, the term "community college district" means a body corporate and a subdivision of the state of Montana organized under a single board of trustees for the purpose of providing community college instruction to high school graduates and other persons who have terminated their formal high school education. Community college districts shall be in addition to any other districts existing in any portion of the area encompassed by the community college district.

Section 449. Section 75-8102. Community college districts name and corporate powers. A community college district shall be known as "Community College District of _____, Montana." In this name, the community college district may sue and be sued, levy and collect taxes within the limitations of the laws of Montana, and possess the same

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corporate powers as districts in this state, except as otherwise provided by law.

Section 450. Section 75-8103. Supervision by board of education. Community college districts shall be under the supervision of the board of education. The board of education shall: (1) Establish the role of the two-year college in the state;

(2) Set up a survey form to be used for local surveys of need and potential for two-year colleges and provide supervision in the conducting of surveys;

(3) Supervise the community college districts;

(4) Formulate and put into effect uniform policies as to budgeting, record keeping, and student accounting;

(5) Establish uniform minimum entrance requirements and uniform curricular offerings for all community colleges;

(6) Make a continuing study of community college education in the state; and

(7) Be responsible for the accreditation of each community college under its supervision. Accreditation shall be conducted annually or as often as deemed advisable and made in a manner consistent with the rules and regulations established and applied uniformly to all community college districts in the state. Standards for such accreditation shall be formulated with due consideration given to curriculum offerings and entrance requirements of the Montana university system.

Section 451. Section 75-8104. Requirements for organization of community college district. The registered electors in any area of the state of Montana may request an election for the organization of a community college dis-

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trict where the proposed community college district conforms to the following requirements: (1) The proposed area shall coincide with the then existing boundaries of contiguous elementary districts of one or more counties.

(2) The assessed valuation of the proposed area is at least thirty million dollars ($30,000,000).

(3) There are at least seven hundred (700) pupils regularly enrolled in public and private high schools located in the proposed area.

Section 452. Section 75-8105. Petition to propose organization of community college district. When the area of a proposed community college district satisfies the specified requirements, the registered electors of the area may petition the board of education to call an election for the organization of a community college district. Such petition shall be signed by at least twenty per cent (20%) of the registered electors within each county or a part of a county included in the area of the proposed community college district.

Section 453. Section 75-8106. Call of community college district organization election and proposition statement. A petition for the organization of a community college district shall be presented to the board of education. The board of education shall examine the petition to determine if the petition satisfies the petitioning and community college district organizational requirements.

If the board of education determines that the petition satisfies such requirements, the board of education shall order the elementary districts encompassed by the proposed community college district to conduct an election on the

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community college district organization proposition. Such election shall be held on the next succeeding regular school election day, except that an election required by a petition received by the board of education less than sixty (60) days before the regular school election day shall be held at the regular school election in the following school fiscal year.

At such election, the proposition shall be in substantially the following form:

PROPOSITION

Shall there be organized within the area comprising the School Districts of (elementary districts shall be listed by county), State of Montana, a community college district for the offering of 13th and 14th year courses, to be known as the Community College District of _____, Montana, under the provisions of the laws authorizing community college districts in Montana, as prayed in the petition filed with the Board of Education at Helena, Montana, on the _____ day of _____, 19____?

☐ For organization

☐ Against organization

Section 454. Section 75-8107. Election of trustees, districts from which elected and terms of office. The board of education shall provide for the election of trustees of the proposed community college district at the election held for the approval of its organization. Seven (7) trustees shall be elected at large, except that should there be in such proposed community college district one or more high school districts or part of a high school district within the community college district with more than forty-

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three per cent (43%) and not more than fifty per cent (50%) of the total school census of the proposed district, as determined by the last school census, then each such district or part of district shall elect three (3) trustees and the remaining trustees shall be elected at large from the remainder of the proposed community college district. Should any such high school district or such part of a high school district have more than fifty per cent (50%) of the total school census of the proposed district, then four (4) trustees shall be elected from such high school district or such part of high school district and three (3) trustees at large from the remainder of the proposed community college district. If the trustees are elected at large throughout the entire proposed community college district, the one receiving the greatest number of votes shall be elected for a term of seven (7) years, the one receiving the next greatest number of votes, for a term of six (6) years, the one receiving the next greatest number of votes, for a term of five (5) years, the one receiving the next greatest number of votes for a term of four (4) years, the one receiving the next greatest number of votes for a term of three (3) years, the one receiving the next greatest number of votes for a term of two (2) years, and the elected one receiving the least number of votes for a term of one (1) year. If the trustees are elected in any manner other than at large throughout the entire proposed community college district, then the trustees elected shall determine by lot the one who shall serve for seven (7) years, the one who shall serve for six (6) years, the one who shall serve for five (5) years, the one who shall serve for four (4) years, the one who

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shall serve for three (3) years, the one who shall serve for two (2) years, and the one who shall serve for one (1) year. Thereafter, all trustees elected shall serve for terms of seven (7) years each.

Section 455. Section 75-8108. Call for nominations of trustee candidates and notice. A call for nominations of trustee candidates for the proposed community college district shall be made by the board of education. Notice of the call for nominations shall be published in at least one newspaper of general circulation in each county or any portion of a county included in the proposed community college district, once a week for three consecutive weeks, the last insertion to be no less than five weeks prior to the date of the election. Such notice shall describe the geographical composition of the board of trustees membership, nomination procedure, and the proposal for the organization of a community college district.

Section 456. Section 75-8109. Nomination of candidates and provision of sample ballot. Nominations of candidates for the trustee positions must be filed with the board of education at least thirty (30) days prior to the date of the election. Any five qualified electors may file nominations of as many persons as are to be elected to the board of trustees of the proposed community college district from their respective community college trustee election areas. The board of education shall provide the trustees of each district ordered to conduct the community college district organization election with a sample of the ballot for the election of the board of trustees. Such sample ballot shall be reproduced by the trustees in a

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sufficient number to be used as the trustee election ballot.

Section 457. Section 75-8110. Notice of organization election. Notice of the community college district organization election and the accompanying election of a board of trustees for the proposed community college district shall be given by the board of education by publication in at least one newspaper of general circulation in each county or any portion of a county included in the proposed community college district, once a week for three consecutive weeks, the last insertion to be no more than one week prior to the date of the election.

Section 458. Section 75-8111. Conduct of election. The election for the organization of the community college district and the election of trustees for such community college district shall be conducted, in accordance with the school election laws, by the trustees of the elementary districts ordered to call such election. The cost of conducting such election shall be borne by the districts.

Section 459. Section 75-8112. Determination of approval or disapproval of proposition and subsequent procedures if approved. The proposal to organize the community college district, to carry, must receive a majority of the total number of votes cast thereon and the superintendent of public instruction, from the results so certified and attested, shall determine whether the proposal has received the majority of the votes cast thereon for each county or part of a county within the proposed district and shall certify the results to the board of education. Should the certificate of the superintendent of public instruction show that the proposition to organize such community college district

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has received a majority of the votes cast thereon in each county or part of a county within the proposed district, the board of education shall make an order declaring the community college district organized and cause a copy thereof to be recorded in the office of the county clerk and recorder in each county in which a portion of such new district is located. If the proposition carries in some county or counties or parts of counties but not in all portions of the area sought to be included within the district, the board of education shall determine whether the area in which the proposition carried by a majority vote meets the assessed valuation and high school pupil enrollment requirements for the organization of a community college district, and if so, shall establish the boundaries and make an order declaring the community college district organized in the area in which the proposition has carried by a majority vote. If the proposition carries, the board of education also shall determine which candidates have been elected trustees. Should the proposition to organize the community college district fail to receive a majority of the votes cast thereon, no tabulation shall be made to determine the candidates elected trustees.

Within thirty (30) days of the date of the organization order, the board of education shall set a date and call an organization meeting for the board of trustees of the community college district and shall notify the duly elected trustees of their membership and of the organization meeting. Such notification shall designate a temporary chairman and secretary for the purposes of organization.

Section 460. Section 75-8113. Qualifying and organization of board of trustees. Newly elected members of

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the board of trustees of the community college district shall be qualified by taking the oath of office prescribed by article XIX, section 1, of the constitution of Montana. At the organization meeting called by the board of education, the board of trustees shall be organized by the election of a president and vice-president and a secretary; said secretary may be or may not be a member of the board. The treasurer of the community college district shall be the county treasurer of the county in which the community college facilities are located.

Section 461. Section 75-8114. Election of trustees after organization of community college district. After organization, the registered electors of the community college district shall vote for trustees on the first Saturday in April, and such elections shall be conducted by the component elementary school districts within such community college district upon the order of the board of trustees of the community college district. Such order shall be transmitted to the appropriate trustees not less than forty (40) days prior to the regular school election day.

Notice of the community college district trustee election shall be given by the board of trustees of the community college district by publication in one (1) or more newspaper of general circulation within each county, not less than once a week for two (2) consecutive weeks, the last insertion to be no longer than one (1) week prior to the date of the election. This notice shall be in addition to the election notice to be given by the trustees of the component elementary districts under the school election laws.

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Should trustees be elected other than at large throughout the entire district, then only those qualified voters within the area from which the trustee or trustees are to be elected shall cast their ballots for the trustee or trustees from that area. All candidates for the office of trustee shall file their declarations of candidacy with the secretary of the board of trustees of the community college district not less than thirty (30) days prior to the date of election. If an electronic voting system or voting machines are not used in the component elementary school district or districts which conduct the election, then the board of trustees of the community college district shall cause ballots to be printed and distributed for the polling places in such component districts at the expense of the community college district, but in all other respects said elections shall be conducted in accordance with the school election laws. All costs incident to election of the community college trustees shall be borne by the community college district including one-half (1/2) of the compensation of the judges for the school elections; provided that, if the election of the community college district trustees is the only election conducted, the community college district shall compensate the district for the total cost of the election.

Section 462. Section 75-8115. Tabulation, declaration and certification of elected trustees. When the board of trustees of the community college district has received all the certified results of the election from the component elementary districts, the then qualified members of the board of trustees of such community college district shall

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tabulate the results so received, shall declare and certify the candidate or candidates receiving the greatest number of votes to be elected to the position or positions to be filled, and shall declare and certify the results of the votes cast on any proposition presented at such election.

Section 463. Section 75-8116. Vacancy of trustee position. Any vacancy of a trustee's position shall be filled by appointment by the remaining trustees, and the person appointed shall hold office until the next regular school election day, when a trustee shall be elected for the remainder of the unexpired term.

Section 464. Section 75-8117. Board of trustees' meetings, quorum, travel reimbursement and seal. The board of trustees of the community college shall hold monthly meetings within the community college district on such day of the month the trustees may set. The president and secretary of the board or a majority of the board may also call special meetings of the board of trustees at any time and place within the community college district, if in their judgment necessity requires it. The secretary of the board shall notify the members of all special meetings.

A majority of the board of trustees shall constitute a quorum for the transaction of business except that no contract shall be let, teacher employed or dismissed, or bill approved unless a majority of the total board membership shall vote in favor of such action.

The members of the board of trustees shall receive ten cents (10¢) per mile for the distance necessarily traveled in going to and returning from the place of the meeting and

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his place of residence each day that such trip is actually made.

The board shall keep a common seal with which to attest its official acts.

Section 465. Section 75-8118. Pecuniary interest and letting contracts. It shall be unlawful for any community college district trustee to have any pecuniary interest, either directly or indirectly, in the erection of any community college building in his district, or for furnishing or repairing the same, or be in any manner connected with the furnishing of supplies for the maintenance of the college, or to receive or to accept any compensation or reward for services rendered as trustee, except as herein provided. No board of trustees shall let any contract (except if the amount involved is less than two thousand dollars ($2,000) for building, furnishing, repairing or other work or supplies for the benefit of the district, without first advertising once each week for at least two (2) weeks in a newspaper published in each county wherein the area of the district lies, and without calling for bids to perform such work or furnish such supplies. In all cases where advertising is required, the board shall award the contract to the lowest responsible bidder; provided, however, that the board of trustees shall have the right to reject any and all bids.

Section 466. Section 75-8119. Courses of instruction and tuition fees. A community college district shall provide instruction, classes, school or schools for student residents within the community college district, in academic, occupational, and adult education, subject to the

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approval of the board of education. The board of trustees of such district may in their discretion determine the per capita cost of such courses, file the same with the board of education and upon approval thereof by the board of education, shall require of all nondistrict residents who are accepted as pupils, a tuition fee in such sum as may be necessary for maintenance of such course or courses. A different tuition may be established as between nondistrict residents residing within the state of Montana and those residing outside the state of Montana. In addition thereto, such board of trustees may charge resident students such amounts as it deems necessary to maintain such courses, taking into consideration such other funds as may be available under law for the support of such course.

Section 467. Section 75-8120. Employment of personnel and retirement system for employees. The board of trustees shall appoint the employees of the community college, define and assign their powers and duties and fix their compensation.

The community college district and teachers of a community college district shall be subject to and the teachers shall be eligible for the benefits of the Teachers Retirement System provided by the laws of Montana.

Section 468. Section 75-8121. Budgeting and financing, average number belonging, participation in foundation program, special levy, adult education and acceptance of federal funds. A community college district shall be considered a district under the high school budgeting and financing provisions of the laws of Montana for the purposes of budgeting and financing such community college district.

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When the community college district encompasses territory in more than one county, the community college district shall be subject to the budgeting and financing laws for a joint high school district. In either case, the budget of a community college district shall be complete and separate.

The average number belonging for community colleges shall be determined by dividing the total number of eligible credits taken by eligible students by thirty (30). Eligible students for average number belonging calculation purposes shall be students who are under twenty-one (21) years of age for one-half or more of any quarter, including the summer quarter, and who are not concurrently enrolled in an elementary or high school. Eligible credits for average number belonging calculation purposes shall be: (1) credits taken by an eligible student;

(2) credits taken in courses of instruction approved by the board of education.

Eligible credits for average number belonging calculation purposes shall not include: (1) credits taken in adult education courses;

(2) credits dropped by the eligible student before the midpoint in the quarter;

(3) credits taken in resident extension courses of the Montana university system.

The community college district shall participate in the foundation program in accordance with the laws of Montana as a high school district and the foundation program shall be determined in accordance with the high school foundation program schedule established by law.

Whenever the board of trustees of a community college

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district shall deem it necessary to raise money by taxation in excess of the general fund budget limitation provided by law, they may proceed under the provisions for a high school district special levy to order the component elementary districts to conduct an election on the proposition for additional property taxation to raise such additional amount of money. Coordination of such election with the component elementary district shall be in accordance with the laws providing for the regular election of the community college trustees.

A community college shall be considered a district for the purposes of adult education and under the provisions for adult education may levy a one mill tax for the support of its adult education program when the superintendent of public instruction approves such program.

The board of trustees of a community college district is hereby authorized to accept funds from the federal government or the state of Montana, their instrumentalities or any of their agencies in aid of any one or more purposes or in maintaining and operating the community college.

Section 469. Section 75-8122. Sources of financing for and types of capital expenditures. The board of trustees of any community college district is hereby vested with the power and authority to: (1) build, enlarge, alter, repair or acquire by purchase school buildings and dormitories;

(2) furnish and equip such buildings;

(3) purchase sites for such buildings;

(4) levy an additional tax not exceeding ten (10) mills on the dollar of the taxable value of all taxable property within the district for the purposes specified in this

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section. Such additional tax must be approved by the registered electors in the community college district who are taxpayers upon property within such district. Such election shall be conducted in accordance with the special levy provisions for community college districts.

The board of trustees of a community college district is further vested with the power and authority to accept or borrow monies from the federal government for the purposes of this section.

Section 470. Section 75-8123. Acceptance of donations. The board of trustees of a community college district, on behalf of the district, is hereby authorized and empowered to accept gifts, legacies and devises, subject to the conditions imposed by the deed of the dower, or will of the testator, or without any conditions imposed.

Section 471. Section 75-8124. Lease or sale of district property. Whenever a district has property that is not required for the use of the district, such property may be leased or sold and conveyed to the community college district. Such lease or sale of property shall be consummated in accordance with the provisions of the law of Montana.

Section 472. Section 75-8125. Annexation of territory of districts to community college district. Whenever the board of trustees of a community college district so resolves or whenever ten per cent (10%) of the registered electors of an elementary district or districts of one county petition the board of trustees of a community college district for annexation of the territory encompassed in such elementary school districts, the board of trustees of the

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community college district shall order an annexation election in the area defined by the resolution or by the petition. Such election shall be ordered within sixty (60) days of the receipt of the petition or passage of the resolution.

The election shall be conducted in the proposed area for annexation in accordance with the requirements of the community college organization election except that the board of trustees of the community college shall perform the requirements of the board of education and there shall not be an election of the board of trustees of the community college.

The proposition on the ballot shall be as follows:

"Shall school districts _____ be annexed to and become a part of the community college district of _____ Montana?

☐ For Annexation

☐ Against Annexation"

To carry, the proposal to annex must receive a majority of the total votes cast thereon. Upon receipt of the certified results of the election from the elementary districts encompassed in the proposed area to be annexed, the board of trustees of the community college district shall canvass the vote and declare the results of the election. If the annexation proposition carries, a certified copy of the canvassing resolution shall be filed in the office of the county clerk and recorder of the county encompassing the area to be annexed and upon such filing, the area to be annexed shall then become a part of the community college district.

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Section 473. Section 75-8201. Trustees power over property. The trustees of any district, other than a high school district operating a county high school, shall have the power and the responsibility to hold in trust all real and personal property of the district for the benefit of the schools and children of the district. In the name of the county, the trustees of a high school district operating a county high school, as defined by section 75-6501, shall have the power and the responsibility to hold in trust all real and personal property of the district for the benefit of the schools and children of the district.

Section 474. Section 75-8202. Land acquired by conditional deed or at will or sufference. Whenever, after the effective date of chapter 206, Laws of 1939, the trustees acquire land by deed conditioned upon the use of the land for the conduct of school or related activities or whenever land has been used by the trustees at the will or sufferance of the land's owner or claimant and the district has constructed buildings or made other improvements on the land, the owner or claimant may repossess the land if it ceases to be used as specified by deed, or if not specified, for the conduct of school or related activities. However, the owner or claimant shall first notify the trustees in writing of his intent to repossess the land, and the trustees shall thereafter have one (1) year to remove any buildings or improvements placed there by the district. The trustees failure to remove the buildings or improvements within that time shall constitute a forfeiture of such buildings or improvements. Before the owner or claimant shall have the right to give notice of repossession, the

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district's intention to permanently cease using the land shall have been established by resolution of the trustees and vote of the district's electors.

Section 475. Section 75-8203. Selection of school sites, approval election, and lease of state lands. The trustees of any district shall have the authority to select the sites for school buildings or for other school purposes but such selection shall first be approved by the qualified electors of the district before any contract for the purchase of such site is entered into by the trustees, except the trustees shall have the authority to purchase or otherwise acquire property contiguous to an existing site that is in use for school purposes without a site approval election. Furthermore, the trustees may take an option on a site prior to the site approval election.

The election for the approval of a site shall be called under the provisions of section 75-6406 and shall be conducted in the manner prescribed by this title for school elections. An elector who may vote at a school site election shall be qualified to vote under the provisions of section 75-6410. If a majority of those voting at the election approve the site selection, the trustees shall have the authority to purchase such sites. A site approval election shall not be required when the site was specifically identified in an election at which an additional levy or the issuance of bonds was approved for the purchase of such site.

Any site for a school building or other building of the district that is selected or purchased by the trustees shall: (1) be in a place that is convenient, accessible

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and suitable;

(2) comply with the minimum size and other requirements prescribed by the board of health of the state of Montana; and

(3) comply with the statewide building regulations, if any, promulgated by the state building code council.

The state board of land commissioners shall have the authority to sell, at the appraised value, or to lease for any period of time less than ninety-nine (99) years, at an amount of one dollar ($1) per year, to a district any tract of state land of not more than ten (10) acres to be used as a school site in such district.

Section 476. Section 75-8204. Trustees authority to acquire or dispose of sites and buildings, and when election required. The trustees of any district shall have the authority to purchase, build, exchange, or otherwise acquire or sell or otherwise dispose of sites and buildings of the district. Such action shall not be taken by the trustees without the approval of the qualified electors of the district at an election called for such approval unless: (1) a bond issue has been authorized for the purpose of constructing, purchasing, or acquiring the site or building;

(2) an additional levy under the provisions of section 75-6923 has been approved for the purpose of constructing, purchasing, or acquiring the site or building;

(3) the cost of constructing, purchasing, or acquiring the site or building is financed without exceeding the maximum-general-fund-budget-without-a-vote amount prescribed in section 75-6905, and, in the case of a site purchase, the site has been approved under the provisions of section

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75-8203; or

(4) monies are otherwise available under the provisions of this title and the ballot for the site approval for such building incorporated a description of the building to be located on the site.

When an election is conducted under the provisions of this section, it shall be called under the provisions of section 75-6406 and shall be conducted in the manner prescribed by this title for school elections. An elector qualified to vote under the provisions of section 75-6410 shall be permitted to vote in such election. If a majority of those electors voting at the election approve the proposed action, the trustees may take the proposed action.

Section 477. Section 75-8205. Trustees may sell property when resolution passed after hearing, and appeal procedure. Whenever the trustees of any district determine that a site, building, or any other real property of the district is or is about to become abandoned, obsolete, undesirable, or unsuitable for the school purposes of such district, the trustees may sell or otherwise dispose of such real property in accordance with this section and without conforming to the provisions of section 75-8204.

The trustees of any district shall adopt a resolution stating their intention to sell or otherwise dispose of district real property because it is or is about to become abandoned, obsolete, undesirable, or unsuitable for the school purposes of the district. When such a resolution is adopted, the trustees shall set the date of the trustees meeting when they shall consider the adoption of a resolution to authorize the sale or other disposition of such real

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property. The trustees shall cause notices to be posted in the manner required for school elections that state the text of the resolution of intention to sell or dispose of the real property and the time, date, and place when the resolution authorizing the sale or other disposition will be considered for adoption. Any elector of the district shall have the right to be present and protest the passage of the resolution. If the trustees adopt the resolution and an elector has protested such adoption at the trustee meeting conducted for the hearing on the resolution, such resolution shall not become effective for five (5) days after the date of its adoption.

Any taxpayer may appeal the resolution of the trustees, at any time within five (5) days after the date of the resolution, to the district court by filing a verified petition with the clerk of such court and serving a copy of such petition upon the district. The petition shall set out in detail the objections of the petitioner to the adoption of the resolution or to the disposal of the property. The service and filing of the petition shall stay the resolution until final determination of the matter by the court. The court shall immediately fix the time for a hearing at the earliest, convenient time. At the hearing, the court shall hear the matter de novo and may take testimony as it deems necessary. Its proceedings shall be summary and informal, and its decision shall be final.

The trustees of a district that has adopted a resolution to sell or otherwise dispose of district real property and, if appealed, has been upheld by the court shall sell or dispose of such real property in any reasonable manner

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that they determine to be in the best interests of the district. The monies realized from the sale or disposal shall be credited to the debt service fund, building fund, general fund, or any combination of these three funds, at the discretion of the trustees.

Section 478. Section 75-8206. Review and approval of school building plans and specifications. No school building in the state, either publicly or privately owned or operated, shall be built, enlarged, remodeled, or repaired until the plans and specifications for such construction have been submitted to the state board of health and the state fire marshal, and such public agencies have endorsed their approval on such plans and specifications. The plans and specifications shall show in detail the proposed construction of the building and shall illustrate and indicate conformity with the regulations of the board of health and of the state fire marshal. The plans and specifications shall be prepared in accordance with the regulations of the board of health of the state of Montana, the regulations of the Montana state fire marshal, and the building code promulgated by the state building code council.

As a service to districts, the superintendent of public instruction shall review the plans and specifications submitted to the board of health to assist the districts in designing facilities for optimum utilization.

Section 479. Section 75-8207. Regulations of board of health. The state board of health shall adopt regulations prescribing the requirements for school sites, school buildings, ventilation, heating, lighting, water supply, sewage and waste disposal, and any other matters pertinent to the

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health and physical well-being of the pupils, teachers, and others who frequent schools. Such regulations of the state board of health shall require: (1) at least fifteen (15) square feet of floor space and two hundred (200) cubic feet of air space for each pupil to be accommodated in each classroom;

(2) a system of ventilation which shall be adequate to produce satisfactory conditions of air in all rooms of the building at all times and under all conditions;

(3) a ventilation system of fire resistant material and construction; and

(4) a system of lighting all parts of the building that will produce an adequate quality and quantity of illumination at all times.

The state board of health shall furnish to the districts copies of such regulations.

Section 480. Section 75-8208. School building plans and specifications approval before payment. The trustees of a district shall not make any payment under any contract for the construction of school facilities until the plans and specifications for such construction have been approved under the provisions of section 75-8206. Any contractor, architect, trustee, or any other person, firm, or corporation who shall violate the provisions of section 75-8206, this section or any regulation promulgated by the state board of health or the state fire marshal shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

Section 481. Section 75-8209. Authorization to lease

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buildings for school purposes. The trustees of any district shall have the authority to lease buildings suitable for school purposes when it is within the best interests of the district to lease such building from the county, another district, or any person. Except as provided in section 75-8203, such lease may be for a term of not more than three (3) years and, when the lease is for a period of time that is longer than the current school fiscal year, the lease requirements for the succeeding school fiscal years shall be an obligation of the final budgets for such years.

Section 482. Section 75-8210. Letting contracts for school facilities. Any letting of contracts related to the construction or furnishing of a new, enlarged, remodeled, or repaired building shall be conducted under the provisions of section 75-6808.

Section 483. Section 75-8211. Leasing district property and disposition of any rentals. The trustees of any district shall have the authority to rent, lease, or let any buildings or facilities of the district under the terms specified by the trustees. Any money collected for such rental, lease, or letting shall be deposited to the credit of that fund which finances the cost of maintaining such real property.

Section 484. Section 75-8212. Authority and duty of trustees to insure district property. The trustees of any district shall have the authority and it shall be their duty to insure any or all real and personal property of the district.

Section 485. Section 75-8301. Gender. Whenever the

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masculine gender is used in this title, it shall be understood also to mean the feminine gender.

Section 486. Section 75-8302. Fines and penalties proceeds for elementary county equalization and reporting such proceeds. All fines and penalties collected under the provisions of this title shall be collected by the action of a court of competent jurisdiction and shall be paid into the county elementary equalization fund as provided by subsection (4) of section 75-6912. In order to implement this section and any other provision of law requiring the deposit of fines in the elementary county equalization fund, the following reports shall be made to the county superintendent of the county in which each court or justice of the peace shall have jurisdiction: (1) during the month of September each justice of peace shall report all fines imposed and collected during the preceeding year indicating the type of violation, and the date of collection; and

(2) at the close of each term the clerk of each district court shall report all fines imposed and collected during the term, indicating the type of violation, and the date of collection.

Section 487. Section 75-8303. School officers not to act as agents. The superintendent of public instruction or members of his staff, county superintendent or members of his staff, trustee or district employee shall not act as an agent or solicitor in the sale or supply of goods or services to a district. No such person shall assist or receive a reward from an agent or solicitor of goods or services for a district. Any such person violating this section shall be

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deemed guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than fifty dollars ($50) or more than two hundred dollars ($200) and shall be liable to removal from his position. The penalties provided by this section shall not be applicable if the charge and conviction are made under the provisions of section 75-7610.

Section 488. Section 75-8304. Oath of office. Any person elected or appointed to any public office authorized by this title shall take the oath of office before qualifying for and assuming the office. In case an officer has a written appointment or commission, his oath shall be endorsed thereon; otherwise it may be taken orally; and, in either case, it may, without charge or fee, be sworn to before an officer authorized to administer oaths for such public office.

Section 489. Section 75-8305. Duty of county attorney. The county attorney shall be the legal advisor of the county superintendent and the trustees of any district located within his county of jurisdiction, and shall prosecute and defend all suits to which such persons, in their capacity as public officials, may be a party.

Section 490. Section 75-8306. Disturbance of school. Any person who shall willfully disturb any school or any school meeting shall be deemed guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than ten dollars ($10) or more than one hundred dollars ($100).

Section 491. Section 75-8307. Penalty. Unless otherwise specifically provided by law, any person who shall

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violate any provisions of this title shall be deemed guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than twenty dollars ($20) or more than two hundred dollars ($200), or by imprisonment in the county jail for not less than five (5) days or more than thirty (30) days, or by both such fine and imprisonment.

Section 492. Section 75-8308. Fire drill. In a public or private school with thirty (30) or more children enrolled, the trustees of the district or those persons charged with the administration of the private school shall provide and install the number of fire gongs prescribed by the fire marshal for such school. The teachers in schools equipped with a fire gong shall instruct the children under their supervision in the fire drill procedure of their school. The district superintendent or principal or, if there is none, the teacher shall cause the conduct of a fire drill once a week for the first month of school and once each month thereafter. The fire drills shall be conducted on no certain day of the week or hour of the day by sounding the gong and immediately ushering the children out the nearest exit in single file.

Any trustee, school employee or other person charged with responsibilities under this section who does not comply with this section shall be guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than five dollars ($5) or more than fifty dollars ($50).

Section 493. Section 75-8309. Instruction in fire dangers and prevention. Every teacher or instructor of a

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public or private elementary grade consisting of more than ten (10) pupils shall devote not less than ten (10) minutes in each week during which school is in session to the instruction of pupils in fire dangers.

For the purpose of such instruction it shall be the duty of the commissioner of insurance to prepare a book, conveniently arranged in lessons. Such lessons shall be in a sufficient number to provide a different lesson for each week of the legally prescribed school term. One of the lessons shall be read by the teachers each week. If the commissioner of insurance deems it advisable, fire danger lessons published by another state may be used in lieu of the lessons published by the commissioner of insurance.

The fire danger book shall be published at the expense of the state from the amount appropriated for public printing, under the direction of the superintendent of public instruction, and shall be distributed by the superintendent of public instruction in quantities sufficient to provide a copy for each teacher required to give fire danger instruction.

Willful neglect by any person in charge of any public, private or parochial school of the elementary grades to comply with the provisions of this chapter, shall be a misdemeanor, punishable for each offense by a fine of not less than five dollars ($5) nor more than twenty dollars ($20).

Section 494. Section 75-8310. School safety patrols. The trustees of any district or the administration of any private school shall have the authority to organize and supervise school safety patrols for a school under their

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authority. The purpose of school safety patrols shall be to influence and encourage other pupils of the school to refrain from crossing public highways at points other than regular crossings and to direct pupils as to when and where to cross highways.

The school safety patrol shall be formed from the children of the school who are nine (9) years of age or more or, if there are none, who are of the highest grade of such school. Before any child may serve on the school safety patrol, the parent or guardian of such child shall give written consent for his child to serve on the school safety patrol.

No liability shall attach either to the school, educational institution, governing board, directing authority, or parent or guardian, or any individual director, member of the trustees, district superintendent, principal, teacher or other school authority by virtue of the organization, maintenance or operation of such school safety patrol because of injuries sustained by any pupil, whether a member of the patrol or otherwise by reason of the operation and maintenance thereof.

Identification and operation of school safety patrols shall be uniform throughout the state and the method of identification and signals to be used shall be as prescribed by the superintendent of public instruction in cooperation with the Montana highway patrol.

Any municipality, city or town of this state may provide for the training of members of the school safety patrol at any authorized school patrol camp located in this state and may pay the expense necessarily incurred in providing

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such training, out of any funds available for such purpose.

Section 495. Section 75-8311. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid parts remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 496. Section 75-8312. Sections 75-101 through 75-107, 75-1201.1, 75-1202 through 75-1206, 75-1301 through 75-1308, 75-1311, 75-1312, 75-1313, 75-1315, 75-1316, 75-1317, 75-1319, 75-1320, 75-1401 through 75-1406, 75-1501 through 75-1510, 75-1512 through 75-1526, 75-1528 through 75-1535, 75-1601 through 75-1626, 75-1628 through 75-1632, 75-1632.1, 75-1633 through 75-1647, 75-1701 through 75-1706, 75-1708, 75-1709, 75-1710, 75-1712, 75-1713, 75-1713.1, 75-1714 through 75-1723, 75-1723.1, 75-1724 through 75-1730, 75-1801 through 75-1813, 75-1813.1, 75-1814 through 75-1823, 75-1825 through 75-1834, 75-1901 through 75-1905, 75-2001 through 75-2009, 75-2011 through 75-2017, 75-2101 through 75-2105, 75-2201 through 75-2215, 75-2301, 75-2302, 75-2303, 75-2401 through 75-2405, 75-2405.1, 75-2406 through 75-2411, 75-2501, 75-2506, 75-2511 through 75-2516, 75-2518 through 75-2522, 75-2701 through 75-2709, 75-2709.1, 75-2709.2, 75-2710 through 75-2716, 75-2801, 75-2802, 75-2901 through 75-2910, 75-3101, 75-3102, 75-3104 through 75-3125, 75-3201, 75-3202, 75-3203, 75-3308 through 75-3311, 75-3401 through 75-3414, 75-3501, 75-3503 through 75-3511, 75-3610, 75-3611, 75-3612, 75-3612.1, 75-3612.2, 75-3612.3, 75-3613 through 75-3624, 75-3701, 75-3706, 75-3709 through 75-3714, 75-3716 through 75-3720, 75-3722 through 75-

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3729, 75-3729.1, 75-3734 through 75-3742, 75-3801 through 75-3806, 75-3901 through 75-3946, 75-4001 through 75-4007, 75-4101, 75-4103 through 75-4113, 75-4115 through 75-4118, 75-4120, 75-4120.1, 75-4120.2, 75-4120.3, 75-4121 through 75-4144, 75-4146 through 75-4153, 75-4201 through 75-4228, 75-4230 through 75-4242, 75-4244 through 75-4248, 75-4309 through 75-4323, 75-4413 through 75-4430, 75-4501 through 75-4506, 75-4511, 75-4512, 75-4514, 75-4515, 75-4516.1, 75-4516.2, 75-4517, 75-4518, 75-4518.1, 75-4519 through 75-4527, 75-4529 through 75-4535, 75-4537, 75-4538, 75-4540, 75-4601 through 75-4607, 75-4609 through 75-4614, 75-4701 through 75-4709, 75-4801 through 75-4809, 75-5001 through 75-5007, 75-5101, 75-5310 through 75-5317, 75-5401 through 75-5405, 75-5501 through 75-5508, R.C.M., 1947, are repealed.

Section 497. Section 75-8313. This act is effective on its passage and approval.

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Interpretation of phrases.

(b) Does the phrase "elected in the same manner" in section 8, article XIX of the constitution of the state of Montana refer only to the constitutional provisions for election of representatives or does it also refer to contemporary statutory provisions for "nomination" and "election" of members of the house of representatives?

May assembly provide for election of delegates.

May the legislative assembly provide for nonpartisan nomination and election of delegates to the constitutional convention?

May state and local officers serve.

(c) May state and local officers serve as delegates to the constitutional convention? Is a delegate to the constitutional convention a "state officer"?

Supreme court granted jurisdiction.

Section 2. The supreme court of the state of Montana is hereby granted jurisdiction to hear and determine said proceeding in accordance with the procedure established under title 93, chapter 89, R.C.M., 1947.

County attorney authorized to represent Cascade county.

Section 3. The county attorney of Cascade County is hereby authorized to represent the Cascade county clerk and recorder in any proceeding instituted pursuant to section 1 of this act.

Intervention on petition.

Section 4. Upon petition of any person interested in or affected by the determination of the questions presented to the court in the declaratory judgment proceeding to be instituted pursuant to section 1 of this act, the court may, in its absolute discretion, permit such person to intervene in such proceeding as a party plaintiff or defendant upon such terms and conditions as may be imposed by the court so as not to delay the proceeding.

Court costs.

Section 5. The court costs of said proceeding shall be paid by the forty-second legislative assembly.

Severability clause.

Section 6. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act.

Effective immediately.

Section 7. This act is effective on its passage and approval.

Repealing clause.

Section 8. This act is repealed effective June 30, 1973.

Approved January 18, 1971.

CHAPTER 4

An Act to Amend Section 43-310, R.C.M., 1947, Providing Per Diem and Expenses of Members of the Legislative Assembly and Providing that such Per Diem and Expenses Shall be Effective for the Forty-second Legislative Assembly and all Sessions Thereafter.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 43-310, R.C.M. 1947, is amended to read as follows:

"43-310. **Per diem, mileage and expenses of members.**

$20.00 per day during session. 9c per mile.

(1) Holdover members of the legislative assembly and members hereafter elected shall receive twenty dollars ($20) per day, payable weekly, during the session of the legislative assembly, and nine cents (9¢) per mile for each mile of travel to and from their residences and the place of holding the session, by the nearest traveled route.

$25.00 per day during session.

(2) Members shall also receive *twenty-five dollars ($25)* per day, payable weekly during the session of the legislative assembly, as reimbursement for expenses incurred in attending the session.

Pre-session caucuses.

(3) The majority and minority parties in each house shall hold pre-session caucuses for the purpose of preliminary organization of the respective houses. Holdover senators, senators-elect, and representatives-elect shall receive mileage at the rate of nine cents (9¢) per mile for each mile of travel to and from their residences and the place or places of holding the pre-session caucuses."

9c per mile.

Effective for 42nd session and thereafter.

Section 2. This bill shall be effective for the Forty-second Legislative Assembly and all sessions thereafter.

Approved January 21, 1971.

CHAPTER 5

An Act for the Codification and General Revision of Laws Relating to Public Schools and making this Act Effective upon Passage and Approval; Amending Section 10-307, R.C.M., 1947, and Repealing Sections 75-101 through

75-107, 75-1201.1, 75-1202 through 75-1206, 75-1301 through 75-1308, 75-1311, 75-1312, 75-1313, 75-1315, 75-1316, 75-1317, 75-1319, 75-1320, 75-1401 through 75-1406, 75-1501 through 75-1510, 75-1512 through 75-1526, 75-1528 through 75-1535, 75-1601 through 75-1626, 75-1628 through 75-1632, 75-1632.1, 75-1633 through 75-1647, 75-1701 through 75-1706, 75-1708, 75-1709, 75-1710, 75-1712, 75-1713, 75-1713.1, 75-1714 through 75-1723, 75-1723.1, 75-1724 through 75-1730, 75-1801 through 75-1813, 75-1813.1, 75-1814 through 75-1823, 75-1825 through 75-1834, 75-1901 through 75-1905, 75-2001 through 75-2009, 75-2011 through 75-2017, 75-2101 through 75-2105, 75-2201 through 75-2215, 75-2301, 75-2302, 75-2303, 75-2401 through 75-2405, 75-2405.1, 75-2406 through 75-2411, 75-2501, 75-2506, 75-2511 through 75-2516, 75-2518 through 75-2522, 75-2701 through 75-2709, 75-2709.1, 75-2709.2, 75-2710 through 75-2716, 75-2801, 75-2802, 75-2901 through 75-2910, 75-3101, 75-3102, 75-3104 through 75-3125, 75-3201, 75-3202, 75-3203, 75-3308 through 75-3311, 75-3401 through 75-3414, 75-3501, 75-3503 through 75-3511, 75-3610, 75-3611, 75-3612, 75-3612.1, 75-3612.2, 75-3612.3, 75-3613 through 75-3624, 75-3701, 75-3706, 75-3709 through 75-3714, 75-3716 through 75-3720, 75-3722 through 75-3729, 75-3729.1, 75-3734 through 75-3742, 75-3801 through 75-3806, 75-3901 through 75-3946, 75-4001 through 75-4007, 75-4101, 75-4103 through 75-4113, 75-4115 through 75-4118, 75-4120, 75-4120.1, 75-4120.2, 75-4120.3, 75-4121 through 75-4144, 75-4146 through 75-4153, 75-4201 through 75-4228, 75-4230 through 75-4242, 75-4244 through 75-4248, 75-4309 through 75-4323, 75-4413 through 75-4430, 75-4501 through 75-4506, 75-4511, 75-4512, 75-4514, 75-4515, 75-4516.1, 75-4516.2, 75-4517, 75-4518, 75-4518.1, 75-4519 through 75-4527, 75-4529 through 75-4535, 75-4537, 75-4538, 75-4540, 75-4601 through 75-4607, 75-4609 through 75-4614, 75-4701 through 75-4709, 75-4801 through 75-4809, 75-5001 through 75-5007, 75-5101, 75-5310 through 75-5317, 75-5401 through 75-5405, 75-5501 through 75-5508, R.C.M., 1947.

It is the intent of the legislative assembly that all nonamendatory sections of this bill be codified in Title 75, Revised Codes of Montana, 1947, with the subject matter under each heading assigned to a separate chapter of that title.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 10-307, R.C.M., 1947, is amended to read as follows: Amending clause.

"10-307. **Other conditions of indenture.** Every indenture shall also contain an agreement, on the part of the person to whom such child shall be bound, that he will cause such child to attend school under the compulsory attendance provisions of title 75, R.C.M., 1947." Agreement—compulsory attendance.

Section 2. Section 75-5601. **Definition.** As used in this title, unless the context clearly indicates otherwise, "board of education" means the state board of education established under the provisions of section 11, article XI of the constitution of the state of Montana. Definition—"board of education."

Section 3. Section 75-5602. **Membership.** The board of education shall have eleven (11) members, among whom the governor, the attorney general, and the superintendent of public instruction shall serve as ex officio members. The remaining eight (8) members shall be appointed by the governor with the advice and consent of the senate. Such appointments shall be subject to the following limitations: (1) they shall be equally divided among the congressional districts of the state of Montana; Eleven member board of education. Three ex officio members. Eight members appointed by governor. Limitations. Equal division.

(2) not more than four (4) shall be affiliated with the same political party or organization; Party affiliation.

(3) their terms shall be eight (8) years and, except in the case of a vacancy, only one (1) member shall be appointed each year; and Term of office.

(4) when a vacancy occurs, the governor shall appoint a member for the remainder of the term of the incumbent, and such appointments to fill vacancies shall preserve the balance required by subsections (1) and (2) above. Vacancies.

An appointed member of the board of education shall take and subscribe to the constitutional oath of office prescribed for civil officers and file it with the secretary of state before he shall have the capacity to act as a member of the board. He shall serve as a member of the board of education until his successor has been appointed and qualified. Oath. Successor.

Officers. President. Secretary. Treasurer. Chairman.

Section 4. Section 75-5603. **Officers and quorum.** The governor shall serve as the president of the board of education and the superintendent of public instruction shall serve as its secretary. The state treasurer shall act as treasurer to the board. In addition, the board may select an appointed member to chair its meetings in the absence of the governor.

Quorum.

A majority of the board of education membership shall constitute a quorum for the transaction of business.

Meetings at least quarterly at state capitol or unit of system.

Section 5. Section 75-5604. **Meetings.** The board of education shall hold at least quarterly meetings on the second Monday of April, July, September and December. Such meetings shall be held at the state capitol or at a unit of the Montana university system.

Special meetings.

Special meetings of the board of education may be called by the board, or by the president and secretary of the board, at any time and place, if in their judgment necessity requires such a meeting.

Notice.

The secretary of the board shall notify all members of all regular and special meetings.

$20.00 per day plus necessary expenses.

Section 6. Section 75-5605. **Per diem and expenses.** Each appointed member of the board of education shall receive twenty dollars ($20) per day and his necessary and actual expenses incurred for each day in attendance at the meetings of such board or in the performance of any duty or services as a member of such board. All such expenses and per diem shall be paid from the appropriations made by the legislative assembly for the support of the board of education or the Montana university system, whichever is applicable.

Source of money.

Board serves as regents of university system.

Section 7. Section 75-5606. **Ex officio regents.** The board of education shall serve ex officio as the regents of the Montana university system. As the regents, they shall have the power and shall perform all duties prescribed by the higher education provisions of this title. All such duties shall be performed in the name of the regents of the Montana university system.

Powers and duties of board.

Section 8. Section 75-5607. **Powers and duties.** The board of education shall have the power and it shall be its duty to: (1) effect an orderly and uniform system of

Teacher certification.

teacher certification and for the issuance of an emergency authorization of employment by adopting the policies prescribed by sections 75-6002 and 75-6011;

Suspension, revocation.

(2) consider the suspension or revocation of teacher certificates, and appeals from the denial of teacher certification in accordance with the provisions of section 75-6010;

Distribution of equalization.

(3) administer and order the distribution of state equalization aid in accordance with the provisions of section 75-6917;

School buses.

(4) adopt and enforce policies to provide uniform standards and regulations for the design, construction, and operation of school buses in accordance with the provisions of section 75-7004;

School day.

(5) approve or disapprove a reduction of the number of hours in a district's school day in accordance with the provisions of section 75-7403;

Saturday school and instruction-related days.

(6) adopt policies prescribing the conditions when school may be conducted on Saturday, and the types of pupil-instruction-related days and approval procedure for such days in accordance with the provisions of sections 75-7404 and 75-7405;

Standards of accreditation.

(7) adopt standards of accreditation and establish the accreditation status of every school in accordance with the provisions of sections 75-7501 and 75-7502;

Conservation education.

(8) establish the scope of conservation education in the schools in accordance with the provisions of section 75-7509;

Educational media library.

(9) approve or disapprove educational media selected by the superintendent of public instruction for the educational media library in accordance with the provisions of section 75-7511;

Vocational education.

(10) as the governing board of the state of Montana for vocational education, adopt the policies prescribed by and in accordance with the provisions of section 75-7702;

Center designation.

(11) consider applications for post-secondary vocational-technical center designation in accordance with the provisions of section 75-7707;

Programs and budgets. Rates and fees. Lease and purchase agreements.

(12) for the purposes of post-secondary vocational-technical centers, approve or disapprove programs and budgets, direct the distribution of monies in support of such budgets, determine tuition rates and fees, enter into lease agreements or real property purchases in accordance with the post-secondary vocational-technical center provisions of the vocational education chapter of this title;

Special education.

(13) adopt policies for the conduct of special education in accordance with the provisions of section 75-7802;

Community college districts.

(14) supervise community college districts in accordance with the provisions of sections 75-8103 and 75-8119;

Elections. Organization.

(15) call an election, determine the results of the election, order and implement the organization of a community college district in accordance with the community college districts chapter of this title; and

Other duties.

(16) perform any other duty prescribed from time to time by this title or any other act of the legislature.

Adoption of rules and regulations.

Section 9. Section 75-5608. **Other powers and duties.** The board of education shall have the power and it shall be its duty to: (1) adopt rules and regulations, not inconsistent with the constitution or laws of the state of Montana, necessary for its own government or the proper execution of the powers and duties conferred upon it by law;

Seal.

(2) adopt and use an official seal to authenticate its official acts;

Record.

(3) keep a record of its proceedings; and

Report to governor.

(4) submit a written report to the governor of its activities during the immediately preceding fiscal biennium in accordance with the provisions of section 82-4002, R.C.M., 1947.

"Superintendent of public instruction" defined.

Section 10. Section 75-5701. **Definition.** As used in this title, unless the context clearly indicates otherwise, "superintendent of public instruction" means that state government official designated as a member of the executive department by section 1 of article VII of the constitution of Montana.

Election of superintendent.

Section 11. Section 75-5702. **Election and qualification.** A superintendent of public instruction for the state

of Montana shall be elected by the qualified electors of the state at the general election preceding the expiration of the term of office of the incumbent.

Qualifications.

Any person shall be qualified to assume the office of superintendent of public instruction who: (1) has attained the thirtieth anniversary of his birth date at the time of his election;

30 years of age.

2 year residence.

(2) has resided within the state for the two (2) years next preceding his election;

Bachelor's degree.

(3) holds at least a bachelor's degree from any unit of the Montana university system or from an institution recognized as equivalent by the board of education for teacher certification purposes; and

Other qualifications.

(4) otherwise possesses the qualifications for such office which are required by the constitution of the state of Montana.

4-year term. Oath.

Section 12. Section 75-5703. **Term, oath and vacancy.** The superintendent of public instruction shall hold office at the seat of government for the term of four (4) years. He shall assume office on the first Monday of January following his election and shall hold the office until his successor has been elected and qualified. Any person elected as the superintendent of public instruction shall take the oath of a civil officer.

Vacancy.

If the office of superintendent of public instruction becomes vacant, it shall be filled in the manner prescribed by the constitution of the state of Montana.

Hiring staff.

Section 13. Section 75-5704. **Staff.** The superintendent of public instruction shall have the power to employ, organize, and administer a staff of personnel to assist him in the administration of the duties and services of the office. In organizing his staff, the superintendent of public instruction shall employ: (1) a supervisor of physical education who is a graduate of an accredited institution of higher education with a master's degree in physical education;

Supervisor of physical education.

Vocational education.

(2) a professional staff for the state supervision and administration of vocational education in accordance with the provisions of section 75-7703; and

Special education.

(3) a special education supervisor who is a graduate of an accredited institution of higher education with a master's degree in a field of special education for the mentally retarded or physically handicapped, and who has not less than two years experience in special education.

Discretionary staff.

Section 14. Section 75-5705. **Discretionary staff.** In addition to the positions of employment listed in section 75-5704, the superintendent of public instruction may employ: (1) one (1) or more assistant superintendents, one of whom may be designated, with the approval of the board of education, as assistant superintendent for vocational education;

Assistant superintendents.

High school supervisor.

(2) a high school supervisor who is the holder of a class 3 teacher certificate with a district superintendent endorsement;

Elementary supervisor.

(3) an elementary supervisor who is the holder of a valid teacher certificate;

Transportation.

(4) a competent person to develop economy and efficiency in school transportation, and to otherwise supervise the transportation program;

Music supervisor.

(5) a music supervisor who is a graduate of an accredited institution of higher education in music education and who has not less than five (5) years of teaching experience;

Media supervisor.

(6) an educational media supervisor who is a graduate of an accredited institution of higher education and who has experience in the field of educational media; and

Others.

(7) any other supervisors or assistants as may be required to carry out the duties of his office.

Section 15. Section 75-5706. **Administrative powers and duties.** In administering the affairs of his office, the superintendent of public instruction shall have the power and it shall be his duty to: (1) keep a record of his official acts and all documents applicable to the administration of the office, preserve all official reports submitted to him for the period required by law, and surrender them to his successor at the expiration of his term;

Records.
Documents.
Official reports.

Preservation of property.

(2) preserve all books, educational media, instructional equipment and any other articles of educational interest and value which come into his possession; and surrender them to his successor at the expiration of his term;

Printing and distribution.

(3) cause the printing and distribution of all reports and forms necessary for the proper conduct of business by a district or school in the manner prescribed by the provisions of this title;

Seal.

(4) provide and keep an official seal of the superintendent of public instruction by which his official acts shall be authenticated;

Printing of school laws.

(5) whenever he deems necessary but not more than once every four (4) years, cause the printing of a complete and updated volume of the school laws of the state which shall be offered and sold at cost of the printing and shipping to any school official or other person;

Printing of supplements.

(6) whenever a replacement volume is not printed under the provisions of subsection (5), cause the printing of a cumulative supplement to the most recent volume of school laws immediately after the conclusion of any session of the legislative assembly at which new school laws or amendments to the school laws were adopted. It shall be offered and sold at cost of the printing and shipping to any school official or other person;

Report to governor.

(7) submit a written report to the governor of his activities during the immediately preceding fiscal biennium in accordance with the provisions of section 82-4002, R.C.M., 1947;

Biennial report.

(8) if deemed necessary, publish a biennial report of the superintendent of public instruction, as prescribed by section 82-4002, R.C.M., 1947;

Counsel for county superintendents.

(9) counsel with and advise county superintendents on matters involving the welfare of the schools and, when requested, shall give a county superintendent a written answer to any question concerning school law;

Annual meeting.

(10) call an annual meeting of the county superintendents when he deems it advisable;

Public addresses.

(11) as far as he shall find it practicable, address public assemblies on subjects pertaining to education in Montana; and

Promote welfare of schools.

(12) faithfully work in all practical and possible ways for the welfare of the public schools of the state.

General supervision.

Section 16. Section 75-5707. **Powers and duties.** The superintendent of public instruction shall have the general supervision of the public schools and districts of the state, and he shall have the power and shall perform the following duties or acts in implementing and enforcing the provisions of this title: (1) resolve any controversy resulting from the proration of joint costs by a joint board of trustees under the provisions of section 75-5929;

Resolve controversies.

Teacher certifications.

(2) issue, renew or deny teacher certification and emergency authorizations of employment and give notice of teacher certification suspension or revocation proceedings to be conducted by the board of education in accordance with the provisions of the teacher certification chapter of this title;

Reciprocal tuition agreements.

(3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of section 75-6318;

Pay tuition at Twin Bridges.

(4) pay the tuition for the residents of the Montana children's center at Twin Bridges high school in accordance with the provisions of section 75-6319;

Serve on retirement board.

(5) serve on the teachers retirement board in accordance with the provisions of section 75-6203;

Voting forms and rules.

(6) prescribe absentee voting forms and rules in accordance with the provisions of section 75-6416;

High school boundary commission.

(7) approve or disapprove the orders of a high school boundary commission in accordance with the provisions of section 75-6528;

Opening of schools.

(8) approve or disapprove the opening or reopening of a school in accordance with the provisions of sections 75-6602, 75-6603, 75-6604, or 75-6605;

School isolation.

(9) approve or disapprove school isolation within the limitations prescribed by section 75-6608;

School budgets.

(10) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of section 75-6702, and prescribe the school budget format in accordance with the provisions of section 75-6704 and 75-7209;

Communication of district revenues.

(11) establish a system of communication for calculating joint district revenues in accordance with the provisions of section 75-6721;

Emergency budgets.

(12) approve or disapprove the adoption of a district's emergency budget resolution under the conditions prescribed in section 75-6725, and publish rules and regulations for an application for additional state aid for an emergency budget in accordance with the approval and disbursement provisions of section 75-6729;

Publication of rules.

Financial administration.

(13) generally supervise the school financial administration provisions as prescribed by section 75-6802;

Appointment of budget officials.

(14) appoint the responsible county officials for the performance of the budgeting duties and the financial administration duties for a joint district in accordance with the provisions of sections 75-6720 and 75-6803;

Annual report forms.

(15) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of subsection (5) of section 75-6806, and the annual report forms to enable the county superintendents to report to the superintendent of public instruction in accordance with the provisions of section 75-5809;

Increase of ANB.

(16) approve, disapprove or adjust an increase of the average number belonging (ANB) in accordance with the provisions of sections 75-6903 and 75-6904;

Distribution of monies.

(17) distribute state interest and income monies and state equalization aid in support of the foundation program in accordance with the provisions of sections 75-6908, 75-6918, and 75-6919;

Estimates.

(18) estimate the statewide per census child payment for the state interest and income monies and the state equalization level for the foundation program in accordance with the provisions of sections 75-6911 and 75-6920;

State impact aid.

(19) distribute state impact aid in accordance with the provisions of section 75-6925;

Uniform transportation.

(20) provide for the uniform and equal provision of transportation by performing the duties prescribed by the provisions of section 75-7005;

Adult education.

(21) approve or disapprove an adult education pro-

gram for which a district proposes to levy a tax in accordance with the provisions of section 75-7207;

Federal monies.

(22) request, accept, deposit and expend federal monies in accordance with the provisions of section 75-7303;

Authorize use of federal monies.

(23) authorize the use of federal monies for the support of an interlocal cooperative agreement in accordance with the provisions of sections 75-7306 and 75-7307;

Interstate contracts.

(24) prescribe the form and contents of and approve or disapprove interstate contracts in accordance with the provisions of section 75-7308;

Saturday school and instruction-related days.

(25) approve or disapprove the conduct of school on a Saturday or on pupil-instruction-related days in accordance with the provisions of sections 75-7404 and 75-7405;

Standards of accreditation.

(26) recommend standards of accreditation for all schools to the board of education, and evaluate compliance with such standards and recommend accreditation status of every school to the board of education in accordance with the provisions of sections 75-7501 and 75-7502;

Curriculum guides.

(27) collect and maintain a file of curriculum guides and assist schools with instructional programs in accordance with the provisions of sections 75-7505 and 75-7506;

Scope of conservation education.

(28) recommend the scope of conservation education in the schools to the board of education in accordance with the provisions of section 75-7509;

Educational media library.

(29) establish and maintain a library of visual, aural, and other educational media in accordance with the provisions of section 75-7511;

Textbooks.

(30) license textbook dealers, maintain a textbook library, initiate prosecution of textbook dealers violating the law, and supply a textbook listing in accordance with the provisions of the textbooks chapter of this title;

Executive officer for vocational education.

(31) administer and perform the duties as the executive officer of the board of education for vocational education in accordance with the provisions of section 75-7703;

Vocational education center.

(32) consider applications for the designation of a post-secondary vocational-technical center in accordance with the provisions of section 75-7707;

Fund for fees.

(33) establish a fund for the handling of post-secondary vocational-technical center fees in accordance with the provisions of section 75-7714;

Conduct of special education.

(34) supervise and coordinate the conduct of special education in the state in accordance with the provisions of section 75-7803;

Traffic education.

(35) administer the traffic education program in accordance with the provisions of section 75-7904;

School fund services program.

(36) administer the school fund services program in accordance with the provisions of sections 75-8002, 75-8003, and 75-8004;

Community college districts.

(37) determine the result of an organization election for a community college district and the related election of trustees in accordance with the provisions of section 75-8112;

Building plans.

(38) review school building plans and specifications in accordance with the provisions of section 75-8206;

Fire danger books.

(39) publish and distribute fire danger books in accordance with the provisions of section 75-8309;

School safety patrols.

(40) prescribe the method of identification and signals to be used by school safety patrols in accordance with the provisions of section 75-8310; and

Other duties.

(41) perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of education.

Section 17. Section 75-5708. **School census and interest and income distribution.** When the superintendent of public instruction receives the school census and under-six-years-old census reports from a county superintendent, he shall examine both census reports to determine any errors or duplicate entries between districts, especially districts located in separate counties. Whenever an error or duplication is discovered, he shall notify the county superintendent or county superintendents of such error or duplication. Each county superintendent shall explain the inclusion of such child on a district's report and the superintendent of public instruction shall include or delete the name of the child on the basis of the explanation. If a county superintendent does not reply in less than fifteen

Superintendent of public shall examine school census—procedure.

Notice.

(15) days, the superintendent of public instruction shall delete the name of the child he has questioned.

Superintendent shall distribute monies.

After the superintendent of public instruction has completed a review of all the district census reports and tabulated the statewide total of these reports, he shall distribute the state interest and income monies on the basis of the school census reports of the children who are six (6) years of age or older but who have not yet reached their twenty-first birthday under the provisions of sections 75-6908 and 75-5936.

Superintendent shall resolve controversies.

Section 18. Section 75-5709. **Controversy appeal.** The superintendent of public instruction shall decide matters of controversy when they are appealed from: (1) a decision of a county superintendent rendered under the provisions of section 75-5811; or

(2) a decision of a county transportation committee rendered under the provisions of section 75-7015.

Decision based on transcript.

The superintendent of public instruction shall make his decision on the basis of the transcript of the fact-finding hearing conducted by the county superintendent or county transportation committee, documents presented at the hearing, affidavits, verified statements, or sworn testimony as to the facts in issue. The decision of the superintendent of public instruction shall be final, subject to adjudication or the proper legal remedies in the state courts.

Decision final.

In order to establish a uniform method of hearing and determining matters of controversy arising under this title, the superintendent of public instruction shall prescribe and enforce rules of practice and regulations for the conduct of hearings and the determination of appeals by all school officials of the state.

Conduct of hearings.

"County superintendent" defined.

Section 19. Section 75-5801. **Definition.** As used in this title, unless the context clearly indicates otherwise, "county superintendent" means the county government official designated as the school officer of the county by section 5 of article XVI of the constitution of Montana.

Election.

Section 20. Section 75-5802. **Election and qualification.** A county superintendent shall be elected in each county of the state unless a county manager form of government has been organized in the county. The county

superintendent shall be elected at the general election preceding the expiration of the term of office of the incumbent.

Qualifications.

Any person shall be qualified to assume the office of the county superintendent who: (1) possesses the qualifications required by the constitution of the state of Montana;

Certificate.

(2) holds a valid teacher certificate issued by the superintendent of public instruction; and

Experience.

(3) has not less than three (3) years of successful teaching experience.

Term 4 years.

Section 21. Section 75-5803. **Term, oath and vacancy.** The county superintendent shall hold office for a term of four (4) years. He shall assume office on the first Monday of January following his election and shall hold the office until his successor has been elected and qualified.

Oath.

Any person elected as the county superintendent shall take the oath or affirmation of office and shall give an official bond, as required by law.

Vacancy.

If the office of county superintendent becomes vacant, the board of county commissioners shall appoint a replacement to fill the vacancy. Such replacement shall serve until the next regular general election when a person shall be elected to serve the remainder of the initial term, if there be any remaining term.

Office space and supplies.

Section 22. Section 75-5804. **Office costs and staff.** The board of county commissioners shall supply the county superintendent with suitable office space and office supplies. The county superintendent shall be paid from the county general fund all necessary traveling expenses that he actually incurs in discharging his duties after such expenses have been audited by the board of county commissioners.

Traveling expenses.

Deputies may be appointed.

Upon the county superintendent's recommendation of a candidate, the board of county commissioners may appoint such candidate to the position of chief deputy county superintendent. The commissioners also may appoint deputies and assistants for the county superintendent. The commissioners shall fix the salaries of the per-

Salaries.

sonnel prescribed by this section at ninety per cent (90%) or less of the salary of the county superintendent.

Section 23. Section 75-5805. **Powers and duties.** The county superintendent shall have general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts: (1) determine, establish and re-establish trustee nominating districts, and fill additional trustee position vacancies in accordance with the provisions of sections 75-5903, 75-5904, and 75-5905;

General supervision of county schools.

Trustees.

(2) administer and file the oaths of members of the trustees of the districts in his county in accordance with the provisions of section 75-5916;

Administer oaths.

(3) fill by appointment any trustee position vacancies when required under the provisions of section 75-5918;

Trustee vacancies.

(4) register the teacher certificate or emergency authorization of employment of any person employed in the county as a teacher, principal, or district superintendent in accordance with the provisions of section 75-6106;

Registration.

(5) act on each tuition application submitted to him in accordance with the provisions of sections 75-6313, 75-6314, 75-6315 and 75-6316, and transmit the tuition information required by section 75-6317;

Tuition applications.

(6) file a copy of the audit report for a district or a school's extracurricular fund in accordance with the provisions of sections 75-6807 or 75-6323;

Audit report.

(7) classify districts in accordance with the provisions of section 75-6503;

Classify districts.

(8) keep a transcript and reconcile the district boundaries of the county in accordance with the provisions of section 75-6504;

Boundaries.

(9) fulfill all responsibilities assigned to him under the provisions of this title regulating the organization, alteration or abandonment of districts;

Responsibilities for districts.

(10) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with sections 75-6538 and 75-6539;

Unification proposals.

(11) estimate the average number belonging (ANB) of an opening school in accordance with the provisions of sections 75-6602, 75-6603, 75-6604, or 75-6606;

Estimation of ANB.

(12) process and, when required, act on school isolation applications in accordance with the provisions of section 75-6608;

School isolation applications.

(13) complete the budgets, compute the budgeted revenues and tax levies, give notices of the budget meetings, file final and emergency budgets and fulfill such other responsibilities assigned to him under the provisions of this title regulating school budgeting systems;

Completion of budgets.

(14) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of section 75-6804;

Annual report.

(15) quarterly, unless otherwise provided by law, order the county treasurer to apportion state monies, county school monies and any other school monies subject to apportionment in accordance with the provisions of sections 75-6909, 75-6914, 75-6919, 75-6921, 75-7022, 75-7023, or 75-6805;

Apportionment of monies.

(16) act on any request to transfer average number belonging (ANB) in accordance with the provisions of subsection (3) of section 75-6903;

Transfers of ANB.

(17) calculate the estimated, budgeted general fund sources of revenue in accordance with the provisions of sections 75-6911 and 75-6920, and the other general fund revenue provisions of the general fund chapter of this title;

Sources of revenue.

(18) compute the revenues and the district and county levy requirements for each fund included on each district's final budget, and report such computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds chapters of this title;

Computation of revenues.

Reports.

(19) file and forward bus driver certifications, transportation contracts, and state transportation reimbursement claims in accordance with the provisions of sections 75-7003, 75-7020, or 75-7022;

Bus driver certifications—transportation.

(20) for districts which do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of sections 75-7519 or 75-7603;

Recommendation of books.

Textbook dealer activities.

(21) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of section 75-7607, and otherwise comply with the textbook dealer provisions of this title;

Federal monies for indigent children.

(22) act on district requests to allocate federal monies for indigent children for school food services in accordance with the provisions of section 75-8006; and

Other duties.

(23) perform any other duty prescribed from time to time by this title, any other act of the legislature, the policies of the board of education, or the rules and regulations of the superintendent of public instruction.

Additional positions of county superintendent.

Section 24. Section 75-5806. **Additional positions.** In his capacity as county superintendent, he also shall serve as: (1) the county superintendent for a joint district under the conditions prescribed by sections 75-6720, 75-6803, and 75-6106;

Clerk of budget board.

(2) the clerk of the board of school budget supervisors, as prescribed by section 75-6703;

Chairman—transportation committee.

(3) the chairman of the county transportation committee, as prescribed by section 75-7014;

Boundary commission.

(4) a member of the high school boundary commission of the county, as prescribed by section 75-6521;

Attendance officer.

(5) an attendance officer for a district under the conditions prescribed by section 75-6305; and

Clerk—joint board of trustees.

(6) the clerk of a joint board of trustees under the conditions prescribed by section 75-5928.

Other powers and duties.

Section 25. Section 75-5807. **Other powers and duties.** The county superintendent shall have the power and it shall be his duty to: (1) administer the oath of office to trustees without the receipt of pay for administering the oath;

Administer oath to trustees.

Keep records, reports, books, documents.

(2) keep a record of his official acts, preserve all reports submitted to him under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender such records, books, supplies and equipment to his successor;

Annual report of financial information.

(3) within ninety (90) days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information

for the school fiscal year just ended for each district of the county:

Cash balances.

(a) the total of the cash balances of all funds maintained by the district at the beginning of the year,

Receipts.

(b) the total receipts that were realized in each fund maintained by the district,

Expenditures.

(c) the total expenditures that were made from each fund maintained by the district, and

Cash balances.

(d) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and

Meetings of trustees.

(4) hold meetings for the members of the trustees from time to time at which matters for the good of the districts shall be discussed.

Assist trustees.

Section 26. Section 75-5808. **Assist trustees with school supervision.** The county superintendent shall assist the trustees of any district that does not employ a district superintendent or principal with the supervision of their schools by: (1) visiting each school of the district at least once a school year while pupil instruction is being conducted to observe the instructional methods, ability of the teacher, progress and discipline of the pupils, and the general conditions of the school;

Annual school visits.

Special visits.

(2) special visits to the schools on request of the trustees;

Advise teachers.

(3) advising and directing teachers on instruction, pupil discipline, and other duties of the teacher;

Consult trustees.

(4) consulting with the trustees on all school matters that may be found during the observation of the school or may otherwise come to the attention of the county superintendent.

Annual report to superintendent of public instruction.

Section 27. Section 75-5809. **Annual report and receipt.** The county superintendent of each county shall submit an annual report to the superintendent of public instruction not later than the first day of September. Such report shall be completed on the forms supplied by the superintendent of public instruction which shall require the reporting of: (1) the final budget information for each district of the county, as prescribed by subsection (1) of section 75-6719;

Final budget information.

Financial activities of each district.

(2) the financial activities of each district of the county for the immediately preceding school fiscal year as provided by the trustees annual report to the county superintendent under the provisions of subsection (5) of section 75-6806;

Pupil information.

(3) the pupil information for each district provided the county superintendent under the provisions of subsection (4) of section 75-6108 or subsection (7) of section 75-6113; and

Other information.

(4) any other information that may be requested by the superintendent of public instruction which is within his authority prescribed by this title.

Receipt for annual report.

When the superintendent of public instruction receives a complete annual report from the county superintendent, he shall immediately issue a receipt for the annual report to such county superintendent. The county superintendent shall present the receipt to the board of county commissioners and, if the county commissioners do not receive the receipt, they shall not pay the county superintendent's salary for the last two (2) months of the calendar year until the receipt is presented to them.

Salary shall be withheld.

Section 28. Section 75-5810. **School census review, transmittal and receipt.** When the county superintendent of any county receives the school census and the under-six-years-old census from a district as prescribed by section 75-5937, he shall examine both census reports to determine any errors or duplications with other districts of the county. In order to facilitate this examination the county superintendent shall maintain and update with each school census and under-six-years-old census an alphabetical card index of each family with each child of the family listed on the family card for all the families of the county.

County superintendent shall examine school census.

Keep updated family card index.

The county superintendent shall examine the school census and under-six-years-old census reports of each district for: (1) duplication of the same child's name on the reports of separate districts;

Duplication of names.

(2) fictitious names on the reports;

Fictitious names.

(3) the names of children who are too old or too young for inclusion on the report on which he is listed; or

Age of children.

Residency.

(4) names of children who were not residents of the district on the first day of October in accordance with the terms of residence prescribed by section 75-5936. Whenever the county superintendent's examination indicates a duplication or other error in completing the reports, he shall notify the reporting district or districts. Each district shall explain the inclusion of such children on its reports and the county superintendent shall include or delete the name of each such child on the basis of the explanation. If a district does not reply in less than fifteen (15) days, the county superintendent shall delete the names of the children that he has questioned.

Notice to districts of errors.

Reports of census to superintendent of public instruction.

After the county superintendent has completed his examination of each district's school census and under-six-years-old census reports and not later than the first day of December, he shall submit such reports to the superintendent of public instruction. The superintendent of public instruction shall immediately issue a receipt for the reports to the county superintendent when a complete report for each district of the county is received, and the county superintendent shall not be paid his salary after the first day of December until such receipt is presented to the board of county commissioners.

Receipt for report.

Salary shall be withheld.

Section 29. Section 75-5811. **Controversy appeals and hearings.** The county superintendent shall hear and decide all matters of controversy arising in his county as a result of decisions of the trustees of a district in the county. Furthermore, he shall hear and decide all controversies arising under: (1) section 75-6315 or 75-6316 relating to the approval of tuition applications;

County superintendent shall hear controversies.

(2) section 75-6104 relating to the termination of services of a tenure teacher; or

Termination of services.

(3) any other provision of this title for which a procedure for resolving controversies is not expressly prescribed.

Other.

The county superintendent shall hear the appeal and take testimony in order to determine the facts related to the controversy and may administer oaths to the witnesses that testify at the hearing. He shall prepare a written transcript of the hearing proceedings. The decision on the matter of controversy which is made by the

Appeal.

Testimony.

Oaths.

Transcript.

Decision based on facts.

county superintendent shall be based upon the facts established at such hearing.

Appeal to state superintendent.

The decision of the county superintendent may be appealed to the superintendent of public instruction and, if it is appealed, the county superintendent shall supply a transcript of the hearing and any other documents entered as testimony at the hearing to the superintendent of public instruction.

"Trustees" defined.

Section 30. Section 75-5901. **Definition.** As used in this title, unless the context clearly indicates otherwise, "trustees" means the governing board of a district. The

Composition of trustees.

trustees shall be composed of the number of trustee positions prescribed for a district by section 75-5902. When exercising the power and performing the duties of trustees, the members shall act collectively and only at a regular or a properly called special meeting.

Number of trustee positions elementary districts.

Section 31. Section 75-5902. **Number of trustee positions.** The number of trustee positions in a district shall vary in the following manner according to the type of district: (1) the number of trustee positions in each elementary district shall vary according to the district's classification, as established by section 75-6503;

(a) there shall be seven (7) trustee positions in a first class elementary district;

(b) there shall be five (5) trustee positions in a second class elementary district; or

(c) there shall be three (3) trustee positions in a third class elementary district.

High school districts.

(2) the trustees of a high school district, except a high school district operating a county high school, shall be composed of:

(a) the trustees of the elementary district where the high school building is located, or, if there is more than one (1) elementary district where high school buildings are located the trustees of the elementary district designated by the high school boundary commission; and

(b) the additional trustee positions determined in accordance with section 75-5903.

County high school districts.

(3) The trustees of a high school district operating a county high school shall be composed of seven (7) trustee positions.

Section 32. Section 75-5903. **Request and determination of number of high school district additional trustee positions.** As provided in subsection (2) (b) of section 75-5902, each high school district, except a high school district operating a county high school, may have additional trustee positions when the trustees of a majority of the elementary districts with territory located in the high school district, but without representation on the high school district trustees under the provision of subsection (2) (a) of section 75-5902, request the establishment of such additional trustee positions.

Additional trustee positions.

Request to county superintendent.

A request for additional trustee positions shall be made to the county superintendent by a resolution of the trustees of each elementary district. When a resolution has been received from a majority of the elementary districts without representation on the high school district trustees, the county superintendent shall determine the number of additional trustee positions for the affected high school district in accordance with the following procedure: (1) The taxable valuation of the elementary district which has its trustees placed on the high school trustees shall be divided by the number of positions on the trustees of such elementary district to determine the taxable valuation per trustee position.

Taxable valuation per trustee position.

Determination of taxable valuation.

(2) The taxable valuation used for the calculation in subsection (1) above shall be subtracted from the taxable valuation of the high school district to determine the taxable valuation of the territory of the high school district without representation on the high school district trustees.

(3) The taxable valuation determined in subsection (2) above shall be divided by the taxable valuation per trustee position calculated in subsection (1) above. The resulting quotient shall be rounded off to the nearest whole number.

Determination of additional trustee positions.

The number determined in subsection (3) above shall be the number of additional trustee positions except that the number of additional trustee positions shall not exceed four (4) in a first or second class high school district or two (2) in a third class high school district that is not eligible for an additional trustee position at large.

Limitations.

Third trustee—third class high school district.

The county superintendent shall designate a third additional trustee position in a third class high school district when two thirds (2/3) or more of the high school enrollment of the high school district and two-thirds (2/3) or more of the taxable valuation of the high school district is located outside of the elementary district which has its trustees placed on the high school district trustees. The person who fills such additional trustee position shall be elected at large from the entire high school district.

Election at large.

Section 33. Section 75-5904. **Establishment and purpose of trustee nominating districts.** After the county superintendent has determined the number of additional trustee positions, he shall establish trustee nominating districts in that portion of the high school district without representation on the high school trustees. There shall be one (1) trustee nominating district for each additional trustee position, except the additional trustee at large. Unless it is impossible, the trustee nominating district boundaries shall be coterminous with elementary district boundaries.

Trustee nominating districts.

Purpose.

The purpose of the trustee nominating district shall be to establish a representative district for the nomination and election of a resident of such district to be an additional member of the trustees of a high school district.

Qualified electors.

The electors qualified to vote in the high school district under the provisions of section 75-6410 and who reside in the trustee nominating district shall be the only electors who may vote for the additional trustee representing such district. They also shall be permitted to vote for a trustee position at large, if there is one, but for no other high school trustee position.

Appointment and election—additional trustees.

Any additional trustee position established under the provisions of this section shall be filled in a manner prescribed under the provisions of section 75-5918. Each additional trustee position filled by appointment under this section shall be subject to election at the next regular school election.

County superintendent shall redetermine trustee positions.

Section 34. Section 75-5905. **Redetermine additional trustee positions and subsequent adjustments.** At any time there is a revision of the taxable valuation of the high school district or the elementary districts within it, or there is a reclassification of the elementary district which has its trustees placed on the high school district

trustees, the county superintendent shall redetermine the number of additional trustee positions for the high school district in accordance with section 75-6406. If there is a change in the allowable number of additional trustee positions, the county superintendent shall reestablish the trustee nominating districts in accordance with section 75-5904. If the number of additional trustee positions is less than the previous number of positions, the county superintendent shall designate which present additional positions shall terminate upon his order reestablishing the trustee nominating districts. If the number of additional trustee positions is more than the previous number of positions, such additional trustee positions shall be filled in the manner prescribed under the provisions of section 75-5918. Each additional trustee position filled by appointment under this section shall be subject to election at the next regular school election.

Section 35. Section 5906. **Election and term of office.** Every trustee position prescribed by this title, except the trustee positions of a high school district operating a county high school, shall be subject to election and the term of office for each position shall be three (3) years unless it is otherwise specifically prescribed by this title.

Election—3 year term.

Section 36. Section 75-5907. **Legislative intent to elect less than majority of trustees.** It is the intention of the legislature that the terms of a majority of the trustee positions of any district with elected trustees shall not regularly expire and be subject to election on the same regular school election day. Therefore, in elementary districts, there shall not be more than three (3) trustee positions in first class districts, two (2) trustee positions in second class districts, or one (1) trustee position in third class districts regularly subject to election at the same time. In high school districts there shall not be more than two (2) additional trustee positions in first or second class districts, or more than one (1) in third class districts regularly subject to election at the same time.

Legislative intent—terms of majority of trustees shall not expire on same day.

Exceptions.

While it is the intention of the legislature that the terms of a majority of trustees of any district shall not regularly expire and be subject to election at the same time, it is recognized that the following circumstances, relating to the terms of trustees appointed to newly created positions or to positions vacated by death, resignation or operation of law, may lead to a subsequent school

election in which a majority of trustee positions are subject to election at the same time: (1) the creation of a new elementary district under the provisions of section 75-6518;

New elementary district.

Consolidation.

(2) the consolidation of two (2) or more elementary districts to form an elementary district under the provisions of section 75-6506;

Additional trustee positions.

(3) the establishment of additional trustee positions of a high school district under the provisions of section 75-5904 or 75-5905;

Change of classification.

(4) the change of a district's classification under the provisions of section 75-6503;

Filling vacancies.

(5) the filling of a trustee position which has become vacant under the provisions of section 75-5917 or any other provision of law; or

Appointments subject to next election.

(6) any other circumstance arising under the law wherein a trustee position is filled by appointment subject to election at the next regular school election.

Elementary districts.

Section 37. Section 75-5908. **Determination of terms after creation or consolidation of elementary districts.** Whenever the trustees are elected at one (1) regular school election under the circumstances described in subsections (1) and (2) of section 75-5907, the members who are elected shall draw by lot to determine their terms of office. Such terms of office by trustee position shall be: (1) three (3) for three (3) years, two (2) for two (2) years, and two (2) for one (1) year in a first class elementary district;

Elected trustees shall draw by lot to determine terms.

(2) two (2) for three (3) years, two (2) for two (2) years, and one (1) for one (1) year in a second class elementary district; or

(3) one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year in a third class elementary district.

Additional trustees.

Section 38. Section 75-5909. **Determination of terms after establishment or re-establishment of additional trustee positions.** Whenever all of the additional trustee positions are subject to election at one (1) regular school election under the circumstance described in subsection (3)

of section 75-5907, the members who are elected shall draw by lot to determine their terms of office. Such terms of office by number of members elected shall be: (1) two (2) for three (3) years, if four (4) are elected;

Elected trustees shall draw by lot.

(2) one (1) for three (3) years, if one (1), two (2) or three (3) are elected;

(3) one (1) for two (2) years, if two (2), three (3) or four (4) are elected; and

(4) one (1) for one (1) year, if three (3) or four (4) are elected.

Re-establishment of additional trustees.

Whenever the re-establishment of the additional trustee positions for a high school district under the provisions of section 75-5905 results in an increased number of additional trustee positions, the members who are elected at the next regular school election shall draw by lot to determine their terms of office and such terms shall be determined in accordance with the additional trustee terms prescribed in this section.

Elected trustees shall draw by lot.

Reclassification of district.

Section 39. Section 75-5910. **Determination of terms after change of district classification.** Whenever the change of an elementary district classification requires the addition of trustee positions to the trustees of such district under the circumstance described in subsection (4) of section 75-5907, the members who are elected shall draw by lot to determine their terms of office which shall be one (1) for three (3) years and one (1) for two (2) years.

Elected trustees shall draw by lot.

Term of vacated trustee position.

Section 40. Section 75-5911. **Term of vacated trustee position after election.** Whenever a trustee position is subject to election because a vacancy of such position has occurred since the last regular school election day, the term of the trustee position shall not change and the member elected to fill such position shall serve the remainder of the unexpired term.

Annual election of trustees.

First Saturday in April.

Section 41. Section 75-5912. **Annual election.** In each district an election of trustees shall be conducted annually on the regular school election day, the first Saturday of April, unless an election of trustees is excused under the provisions of section 75-5914. Election of trustees shall comply with the election provisions of this title.

Trustee candidate qualification.

Section 42. Section 75-5913. **Candidate qualification and nomination.** Any person who is qualified to vote in a district under the provisions of section 75-6410 shall be eligible for the office of trustee.

Nominations.

Any five electors qualified under the provisions of section 75-6410 of any district, except a first class elementary district, may nominate as many trustee candidates as there are trustee positions subject to election at the ensuing election. The name of each person nominated for candidacy shall be submitted to the clerk of the district not less than twenty (20) days before the regular school election day at which he is to be a candidate. If there are different terms to be filled, the term for which each candidate is nominated shall also be indicated.

Submitted to clerk 20 days before election.

Nomination caucus—20 electors.

Section 43. Section 75-5914. **Nomination caucus in first class elementary district and election waiver.** In first class elementary districts, trustee candidates shall be nominated at a caucus attended by not less than twenty (20) electors of the district who are qualified under the provisions of section 75-6410. The caucus shall be conducted not less than forty (40) days nor more than sixty (60) days before the regular school election day.

40 to 60 days before election.

Caucus shall be public.

When a candidate nominating caucus is conducted, it shall be a public meeting and a caucus chairman and secretary shall be elected by the caucus participants. The caucus may nominate any number of candidates.

Chairman and secretary shall certify nominations.

Within ten (10) days after the date of the caucus meeting, the chairman and secretary of the caucus shall certify and file the nominations of the candidates with the clerk of the district by stating the date and place of the caucus, and the name of each candidate nominated. If there are different terms to be filled, the term for which each candidate is nominated also shall be stated.

Votes not considered.

Any votes for a person who has not been nominated in the manner provided by this section shall not be considered by the trustees of a first class elementary district when canvassing and certifying the election results.

One candidate.

Whenever not more than one candidate per trustee position subject to election has been nominated, the clerk of the district shall report such fact to the trustees. The trustees shall certify the election of the nominated candidates and no trustee election shall be conducted on the regular school election day.

Trustees shall certify election.

Section 44. Section 75-5915. **Conduct of election and ballot.** The trustees of each district shall call a trustee election on the regular school election day of each school fiscal year under the provisions of section 75-6406, except

Trustees shall call and conduct trustee election.

as provided in section 75-5914. The trustees shall call and conduct the trustee election in the manner prescribed in this title for school elections. Any elector qualified to vote under the provisions of section 75-6410 may vote at a trustee election. The trustee election ballots shall be substantially in the following form:

Official ballot form.

OFFICIAL BALLOT

SCHOOL TRUSTEE ELECTION

INSTSRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the name of the candidate for whom you wish to vote.

Vote for (indicate number to be elected) for a three (3) year term:

☐ (List the names of the candidates for a three (3) year
☐ term with a vacant square in front of each name.)

Vote for (indicate number to be elected) for a two (2) year term:

☐ (List the names of the candidate for a two (2) year
☐ term with a vacant square in front of each name.)

Vote for (indicate number to be elected) for a one (1) year term:

☐ (List the names of the candidates for a one (1) year
☐ term with a vacant square in front of each name.)

Preparation of ballot.

In preparing the ballots, only those portions of the prescribed ballot that are applicable to the election to be conducted need to be used. The ballot also shall be prepared with blank lines and vacant squares in front of the lines in a sufficient number to allow write-in voting for each trustee position that is subject to election, except that write-in voting shall not be available in a first class elementary district.

Separate ballot.

When additional trustees in a high school district are to be elected, a separate ballot shall be used in each nominating district showing only the names of those candidates for which the electors of such district are entitled to vote.

Trustee qualification.

Section 45. Section 75-5916. **Qualification and oath.** Any person who receives a certificate of election as a trustee under the provisions of section 75-6423 shall not

assume the trustee position until he has qualified. Such person shall qualify by completing and filing an oath of office with the county superintendent not less than fifteen (15) days after the receipt of the certificate of election. After a person has qualified for a trustee position, he shall hold such position for the term of the position and until his successor has been elected or appointed and has been qualified.

Oath.

Term of office.

If the elected person does not qualify in accordance with this requirement, a person shall be appointed in the manner provided by section 75-5918 and shall serve until the next regular election.

Appointment.

Section 46. Section 75-5917. **Vacancy of trustee position.** Any elected trustee position shall be vacant whenever the incumbent: (1) dies;

Vacancies defined.

(2) resigns;

(3) moves his residence from the applicable district, or from the nominating district in the case of an additional trustee in a high school district;

(4) is no longer a registered elector of the district under the provisions of section 75-6410;

(5) is absent from the district for sixty (60) consecutive days;

(6) fails to attend three consecutive meetings of the trustees without a good excuse;

(7) has been removed under the provisions of section 75-5919; or

(8) ceases to have the capacity to hold office under any other provision of law.

A trustee position also shall be vacant when an elected candidate fails to qualify under the provisions of section 75-5916.

Section 47. Section 75-5918. **Filling vacated trustee position, appointee qualification and term of office.** Whenever a trustee position becomes vacant in a first or second class district, the remaining members of the trustees shall declare such position vacant and they shall appoint, in writing, a competent person as a successor. The trustees shall notify the appointee and the county superintendent of such appointment.

Vacancies—trustee shall appoint.

Whenever a trustee position becomes vacant in a third class district, the remaining members of the trustees shall declare such position vacant and notify the county superintendent of the vacancy. The county superintendent shall appoint, in writing, a competent person as a successor and notify such person of his appointment.

County superintendent shall appoint.

Any person who has been appointed to a trustee position shall qualify by completing and filing an oath of office with the county superintendent in not less than fifteen (15) days after receiving notice of his appointment. Failure to file the oath of office shall constitute a continuation of the trustee position vacancy which shall be filled under the provisions of this section.

Qualification oath.

Any person assuming a trustee position under the provisions of this section shall serve until the next regular school election and his successor has qualified.

Term of office.

Section 48. Section 75-5919. **Trustee removal.** Any trustee may be removed from his trustee position by a court of competent jurisdiction under the law providing for the removal of elected civil officials. When charges are preferred against a trustee and good cause is shown, the board of county commissioners may suspend such trustee from his trustee position until the charges can be heard in the court of competent jurisdiction.

Court may remove trustee for cause.

Suspension.

Section 49. Section 75-5920. **Trustees membership of high school district operating county high school.** There shall be seven (7) trustee positions for the trustees of a high school district operating a county high school. Unless it has been otherwise established under law, the trustees of such a high school district shall be composed of the following: (1) the county superintendent; and

Seven trustees—county high schools.

Composition.

(2) six (6) members appointed by the board of county commissioners, no more than three (3) of whom shall reside outside of the elementary district where the county high school building is located.

Section 50. Section 75-5921. **Appointment of trustees for high school district operating county high school.** When trustees of a high school district operating a county high school are appointed by the board of county commissioners, the commissioners, at their December meeting, shall appoint members of the trustees for those terms which are expiring. Each member shall be appointed for

County commissioners shall appoint.

a term of two (2) years beginning on the first Monday of January except that a one (1) year appointment shall be made whenever it is required to maintain the following balance of membership: (1) The terms of not more than three (3) appointed members shall expire at the same time; and

Terms of office.

(2) The terms of not more than two (2) appointed members who reside outside of the elementary district where the county high school building is located shall expire at the same time.

Any member appointed under this section shall serve until his successor has been appointed and qualifies by filing an oath of office with the county superintendent.

Vacancies defined.

Section 51. Section 75-5922. **Vacancy and filling of appointed trustee position.** In those instances where the board of county commissioners appoint the trustees of a high school district operating a county high school, a trustee position shall become vacant whenever the incumbent: (1) fails to be qualified or have the capacity to hold the trustee position under any of the applicable conditions prescribed under section 75-5917;

(2) moves his residence from the elementary district where the county high school building is located but within the high school district, and such change of residence will cause a majority of the appointed members to reside outside of such elementary district.

Board shall appoint to fill vacancy.

Whenever a trustee position is vacated, the remaining members of the trustees shall declare such position vacant and notify the board of county commissioners. The board of county commissioners shall immediately appoint a person to serve the remainder of the term for such vacated trustee position. Their appointment shall comply with the requirements of section 75-5921.

Conditions of elections—county high school districts.

Section 52. Section 75-5923. **Election to approve the election of the trustees of high school district operating county high school.** The trustees of a high school district operating a county high school may be elected when the conditions of this section are satisfied.

Petition.

Twenty per cent (20%) or more of the electors who are qualified to vote in the high school district under the provisions of section 75-6410 may petition the board of county commissioners to call an election to consider the proposition of electing the trustees of the high school district. Whenever the board of county commissioners receives a valid petition requesting such an election, they shall, within ten (10) days after the receipt of the petition and as provided by section 75-6406, order the trustees of the high school district to call an election on the proposition to elect the trustees.

Call of election.

The high school district trustees shall call and conduct an election in the manner prescribed in this title for school elections. Any elector qualified to vote under the provisions of section 75-6410 may vote on the proposition. The ballot for the election shall utilize the following proposition:

Ballot

Shall the trustees of the high school district for the county high school be elected?

☐ FOR the election of trustees.

☐ AGAINST the election of trustees.

If a majority of the electors voting at the election approve the proposition, the trustees shall thereafter be elected beginning on the first regular school election day after such approval. If a majority of the electors disapprove, the trustees shall continue to be appointed under the provisions of section 75-5921.

Trustees approved by electorate—composition.

Section 53. Section 75-5924. **Membership of elected trustees of high school district operating county high school and nomination of candidates.** Whenever the election of the trustees of a high school district operating a county high school has been approved by the electorate, the trustees shall be composed of the following: (1) four (4) trustee positions filled by members residing in the elementary district where the county high school building is located; and

(2) three (3) trustee positions filled by members one of whom resides in each of the three (3) trustee nominating districts in the territory of the high school district outside of the elementary district where the county high school building is located. The county superintendent and board of county commissioners shall establish the nominating districts and, unless it is impossible, such districts shall have coterminous boundaries with elementary district boundaries.

Nomination.

The provisions of section 75-5913 shall govern the nomination of candidates for the trustee election prescribed in this section.

Terms of office.

Section 54. Section 75-5925. **Determination of terms of office and filling vacancy of trustee position.** The members of the trustees of a high school district operating a county high school who are elected at the first election after the voters approve the election of trustees, shall draw by lot to determine their terms. Such terms of office shall be: (1) two (2) for three (3) years, one (1) for two (2) years and one (1) for one (1) year for the trustee positions filled by members of the trustees from the elementary district where the county high school building is located; and

(2) one (1) for three (3) years, one (1) for two (2) years and one (1) for one (1) year for the trustee positions filled by members of the trustees from the trustee nominating districts.

Thereafter, all terms of office shall be for three (3) years and until the successor has qualified, except in the case of electing a member to serve the remainder of an unexpired term for a vacated elected trustee position.

Vacancies.

Whenever an elected trustee position vacancy occurs under any of the circumstances prescribed by section 75-5917, the remaining members of the trustees shall declare such position vacant and they shall appoint, in writing, a competent person as a successor. The trustees shall notify the appointee and the county superintendent of the appointment. The appointee shall qualify by completing and filing an oath of office with the county superintendent, and shall serve until the next regular school election and his successor has qualified for the remainder of the unexpired term of the trustee position.

Appointment.

Oath.

Term of office.

Section 55. Section 75-5926. **Delivering items to successor.** Whenever any member of the trustees, superintendent, principal or clerk of the district is replaced by election or otherwise, he shall immediately deliver all books, papers and monies pertaining to the position to his successor. Any such person who shall refuse to do so, or who shall willfully destroy any such material or misappropriate any monies entrusted to him, shall be guilty of a misdemeanor and, if convicted by a court of compe-

Duty to deliver property.

Penalties.

tent jurisdiction, shall be fined not more than one hundred dollars ($100).

Section 56. Section 75-5927. **Organization and officers.** The trustees of each district shall annually organize as a governing board of the district after the regular election day and after the issuance of the election certificates to the newly elected trustees but not later than the third Saturday of April, except that if the trustees of a high school district operating a county high school are not elected they shall annually organize as the governing board at the first regular meeting of January. In order to organize, the trustees of the district shall be given notice of the time and place where the organization meeting will be held and, at such meeting, they shall choose one of their number as the chairman. In addition, except for the trustees of a high school district operating a county high school, the trustees shall employ and appoint a competent person, who is not a member of the trustees, as the clerk of the district. The trustees of a high school district operating a county high school shall appoint a secretary, who shall be a member of the board.

Duty to organize as governing board.

Notice of meeting.

Chairman.

Clerk.

Secretary.

The chairman of the trustees of any district shall serve until the next organization meeting and shall preside at all the meetings of the trustees in accordance with the customary rules of order. He shall perform the duties prescribed by this title and any other duties that normally pertain to such officer.

Term of chairman.

Section 57. Section 75-5928. **Joint board of trustees organization and voting membership.** Whenever the trustees of a high school district operating a county high school and the trustees of the elementary district where the county high school building is located deem it to be within the best interests of the two districts, they may form a joint board of trustees for the purpose of coordinating the educational program of both districts. When a joint board of trustees is formed, all of the members of both districts' trustees shall be members of the joint board of trustees, and each member shall have the right to participate in the meetings but voting on matters considered by the joint board shall be limited by the provisions of this section.

Joint board of trustees.

At the first meeting of the joint board of trustees, there shall be a chairman of the joint board of trustees selected

Chairman.

from among the membership. If the county superintendent is a member of the high school trustees, he shall be the secretary; otherwise, a secretary of the joint board shall be selected from the membership. The chairman, when selected as a voting member, shall not be disqualified from voting because of his position of chairman of the board. The secretary shall not be a voting member except that he shall cast the deciding vote when three (3) successive ballots have resulted in a tie vote of the joint board of trustees.

Secretary.

Voting membership.

The voting membership of the joint board of trustees shall be equalized between the trustee membership of the two participating districts. After the selection of the chairman and the secretary, if necessary, the voting membership shall be: (1) all of the membership of the elementary district trustees unless one of its members is selected as secretary, in which case such member shall not be a voting member; and

(2) the members of the high school district trustees who are selected by such trustees as voting members of the joint board in a number equal to the number of voting members of the elementary district trustees as established under subsection (1) above. The names of the voting membership selected by the high school trustees shall be submitted in writing to the secretary of the board and shall be the only members of such district's trustees eligible to vote on joint board matters unless such list is revised in writing by the high school trustees.

One vote.

Each voting member shall be entitled to cast one vote, individually, upon every matter submitted to the joint board for a vote.

Powers of joint board.

Section 58. Section 75-5929. **Powers of joint board of trustees.** When a joint board of trustees is formed as provided by section 75-5928, it shall have the power to: (1) jointly employ a district superintendent under the provisions of section 75-6112;

(2) jointly employ teachers under the provisions of section 75-6102;

(3) open a junior high school under the provisions of section 75-6605;

(4) prescribe and administer joint administrative policy; and

(5) prorate all items of joint expense between the elementary and high school districts, provided that a controversy over any decision by the joint board to prorate joint costs may, within thirty days, be appealed by the trustees of either district to the superintendent of public instruction for a final decision as to what constitutes a fair and just proration of the cost.

Limitation.

The joint board of trustees shall not have the power to transact business that is not specifically related to the joint administration of the two districts.

Section 59. Section 75-5930. **Meetings and quorum.** The trustees of a district shall hold at least the following number of regular meetings: (1) an organization meeting, as prescribed by section 75-5927;

Regular meetings.

(2) a preliminary budget meeting, as prescribed by section 75-6707; and,

(3) in first-class elementary districts, not less than one (1) regular meeting per month; or

(4) in any other district, regular meetings during the months of April, July, October and January.

Minimum number.

The trustees of the district shall adopt a policy setting the day and time for the minimum number of regular school meetings prescribed in subsection (3) or (4) and, in addition, any other regular meeting days the trustees wish to establish; such meetings shall be conducted in school buildings or on other property belonging to the district.

Special meetings.

Special meetings of the trustees may be called by the chairman or any two (2) members of the trustees by giving each member a forty-eight (48) hour written notice of the meeting.

Quorum.

No business shall be transacted by the trustees of a district unless it is transacted at a regular meeting or a properly called special meeting. A quorum for any meeting shall be a majority of the trustees' membership. All trustee meetings shall be public meetings, as prescribed by section 82-3401, R.C.M., 1947, except that the trustees may recess to an executive session under the provisions of section 82-3402, R.C.M., 1947.

Public meetings.

Section 60. Section 75-5931. **Travel reimbursement and joint board of trustees secretary compensation.** The members of the trustees of any district shall not receive

Secretary may be compensated.

compensation for their services as trustees, except that the secretary of the trustees of a high school district operating a county high school or the secretary of a joint board of trustees may be compensated for his services as the secretary. The members of the trustees who reside over three (3) miles from the trustees' meeting place shall be reimbursed eight cents ($.08) for every mile necessarily traveled between their residence and the meeting place, and return in attending the regular and special meetings of the trustees, and all trustees shall be similarly reimbursed for meetings called by the county superintendent. The travel reimbursement may be accumulated during the school fiscal year and paid at the end of the fiscal year, at the discretion of each trustee.

Eight cents per mile.

Payment.

Section 61. Section 75-5932. **General powers and duties and record of acts.** The trustees of each district shall have the power and it shall be its duty to prescribe and enforce policies for the government of the district. In order to provide a comprehensive system of governing the district, the trustees shall: (1) adopt the policies required by this title; and

Duties of trustees.

Policies.

(2) adopt policies to implement or administer the requirements of the general law, this title, the policies of the board of education or the rules and regulations of the superintendent of public instruction.

The trustees shall keep a full and permanent record of all adopted policies and all other acts of the trustees.

Records.

Section 62. Section 75-5933. **Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall have the power and it shall be its duty to perform the following duties or acts: (1) employ or dismiss a teacher, principal or district superintendent in accordance with the provisions of the school personnel chapter of this title;

Employment.

(2) administer the attendance and tuition provisions and otherwise govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

Pupil attendance.

(3) call, conduct and certify the elections of the district in accordance with the provisions of the school election chapter of this title;

Elections.

(4) participate in the teachers retirement system of the State of Montana in accordance with the provisions of the teachers retirement system chapter of this title;

Retirement system.

(5) participate in district boundary change actions in accordance with the provisions of the districts chapter of this title;

Boundary changes.

(6) organize, open, close or acquire isolation status for the schools of the district in accordance with the provisions of the school organization chapter of this title;

Schools.

(7) adopt and administer the annual budget or an emergency budget of the district in accordance with the provisions of the school budget system chapter of this title;

Budgets.

(8) conduct the fiscal business of the district in accordance with the provisions of the school financial administration chapter of this title;

Fiscal business.

(9) establish the ANB, foundation program, permissive levy, additional levy, cash reserve and state impact aid amount for the general fund of the district in accordance with the provisions of the general fund chapter of this title;

General fund sources.

(10) establish, maintain, budget and finance the transportation program of the district in accordance with the provisions of the transportation chapter of this title;

Transportation.

(11) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds chapter of this title;

Bonds.

(12) when applicable, establish, financially administer and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, post-secondary vocational-technical center fund, nonoperating fund, school food services fund, miscellaneous federal programs fund, building fund, housing and dormitory fund, traffic education fund and interlocal cooperative agreement fund in accordance with the provisions of the other school funds chapter of this title;

Fundings.

(13) when applicable, administer any interlocal cooperative agreement, gifts, legacies or devises in accordance with the provisions of the miscellaneous financial chapter of this title;

Administration.

(14) hold in trust, acquire and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities chapter of this title;

Property.

School calendar. (15) operate the schools of the district in accordance with the provisions of the school calendar chapter of this title;

Instruction services. (16) establish and maintain the instructional services of the schools of the district in accordance with the provisions of the instructional services, textbooks, vocational education and special education chapters of this title;

Food services. (17) establish and maintain the school food services of the district in accordance with the provisions of the school food services chapter of this title; and

Other duties. (18) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of education or the rules and regulations of the superintendent of public instruction.

Section 63. Section 75-5934. **Other powers and duties.** The trustees of any district shall have the power and it shall be its duty: (1) to employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel deemed necessary to carry out the various services of the district;

Employment of personnel.

Reports. (2) to make such reports from time to time as the county superintendent, superintendent of public instruction and board of education may require;

Health and sanitation. (3) to retain, when deemed advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil, and upon request make available to any parent or guardian any medical reports or health records maintained by the district pertaining to his child;

Visits. (4) for each member of the trustees, to visit each school of the district not less than once each school fiscal year to examine its management, conditions and needs; and

Display of flag. (5) procure and display outside daily in suitable weather at each school of the district an American flag which shall be not less than four (4) feet by six (6) feet.

Section 64. Section 75-5935. **Clerk of the district.** As provided in section 75-5927, the trustees shall employ and appoint a clerk of the district. It shall be the duty of the clerk of the district to attend all meetings of the trustees

Duties of district clerk.

to keep an accurate and permanent record of all the proceedings of each meeting. If the clerk is not present at a meeting, the trustees shall have one of its members or a district employee act as clerk for such meeting, and such person shall supply the clerk with a certified copy of the proceedings. The clerk of the district also shall be the custodian of all documents, records and reports of the trustees. Unless the trustees provide otherwise, the clerk shall: (1) keep an accurate and detailed accounting record of all receipts and expenditures of the district in accordance with the financial administration provisions of this title;

Custodian.

Accounting records.

(2) prepare the annual trustees' report required under the provisions of subsection (5) of section 75-6806; and

Annual trustees' report.

(3) make an annual census of all the children of the district in accordance with sections 75-5936 and 75-5937.

Annual census.

Section 65. Section 75-5936. **School census and child eligibility.** The trustees of each elementary district shall annually take a school census of all children residing in the district who are six (6) years of age or older but who have not yet reached their twenty-first birthday. At the time the school census is taken, the trustees also shall take a census of all the children residing in the district who are less than six years old. The school census shall be taken between the fifteenth day of September and the fifteenth day of October but the age of the child or the residence of the child or parents shall be determined on the basis of his age or the residence on the first day of October.

Annual school census of children in district.

For the purpose of the school census and under-six-years-old census: (1) a child shall be a resident of a district when:

Resident child defined.

(a) he resides with his parent or guardian in the district;

(b) he has resided in the district but is temporarily living outside of the district to attend a public or private school, an institution of higher education or a Montana public institution and his parents or guardian reside in the district;

(c) he is married or has been married and resides in the district, regardless of the residence of his parents or guardian;

(d) he is living at a private institution located in the district that exists primarily for the rehabilitation, psychiatric or general medical care, or general welfare of the child, and such private institution may or may not also provide education for the child; or

(e) any other child who resides in the district and who is not specifically excluded under subsection (2), below.

Non-resident child defined.

(2) a child shall not be a resident of a district when:

(a) he is visiting in or passing through the district;

(b) he is living in the district for the purpose of attending a public or private school or institution which exists primarily for the purpose of providing elementary, secondary or higher education, and his parent or guardian does not live in the district;

(c) he is an unmarried child who is living in the district but his parents do not reside in the district and he is not living in a private institution, as defined in subsection (1) (c) above; or

(d) he may be properly included on the school census of some other district.

Report of census.

Section 66. Section 75-5937. **Report of school census, compensation and transmittal.** The school census and the under-six-years-old census for a district shall be reported in alphabetical order by the child's last name on the blanks supplied by the county superintendent and prescribed by the superintendent of public instruction, unless the superintendent of public instruction has authorized a district to submit its census by a data processing tabulation. The school census and the under-six-years-old census shall report the following facts: (1) The full name, age, birth date and sex of each child grouped under the family information required under subsection (2);

Required facts.

(2) The full names of both parents or guardian and the address of the parents or the guardian; and

(3) Any other information required by the superintendent of public instruction.

Compensation ten cents per name.

The trustees shall pay the clerk of the district or any other person who enumerates the children of the district

for the school census or under-six-years-old census at a rate not exceeding ten cents ($.10) per name properly reported. The clerk or such other person shall not be paid until the report is complete and submitted to the county superintendent. The clerk or such other person shall receive the enumeration compensation in addition to any other regular compensation the district may pay for his services.

Reports required.

The clerk or such other person conducting the census shall submit two copies of the reports, under oath, to the trustees who in turn shall submit them to the county superintendent by the first day of November. Failure to submit the report in accordance with the requirements of this section, or the inclusion of fictitious names or non-resident children on the census report shall be a misdemeanor which shall be punishable by a fine of not less than ten dollars ($10) or more than fifty dollars ($50).

Penalties.

Liabilities.

If the trustees fail to submit the school census report, the members of the trustees shall jointly be liable for the full amount of interest and income monies lost to the district.

Taxpayer action.

Any taxpayer of the district may bring action in the name of the district to recover the money for the district.

Section 67. Section 75-5938. **Listing of handicapped children.** At the time the school census is taken and if the superintendent of public instruction requests such a listing, the trustees shall include a listing of handicapped children of the district as a part of their school census report on forms provided by the superintendent of public instruction. In cooperation with a public health nurse, school nurse or public health medical officer, the listing of the handicapped children shall be completed by using reasonable diligence to ascertain the names and such information for each child as may be requested by the superintendent of public instruction.

Listing of handicapped children.

Facts required.

The superintendent of public instruction may request a survey and the listing of handicapped children prescribed by this section at his discretion but in cooperation with the state department of health.

Section 68. Section 75-5939. **Purchase of liability insurance.** The trustees of any district may purchase insurance coverage for the district, trustees, and employees

Trustees may purchase liability insurance.

against liability for the death, injury, or disability of any person or damage to property. If such insurance is purchased, the trustees shall pay the insurance premium cost from the general fund. The provisions of section 40-4402, R.C.M., 1947, shall apply to the provisions of this section.

Trustees liable for judgments.

Section 69. Section 75-5940. **Liability of district.** The trustees of any district shall be liable in the name of the district for any judgment against the district, and they shall pay such judgments in the same manner as any other obligation of the district.

District monies.

Section 70. Section 75-5941. **Personal liability of trustees.** The trustees of each district shall be responsible for the proper administration and utilization of all monies of the district in accordance with the provisions of law and this title. Failure or refusal to do so shall constitute grounds for removal from office. Those trustees consenting to improper use of the monies shall be jointly and individually liable to the district for any losses the district has realized. The county attorney shall prosecute any proceeding arising pursuant to this section, or a party seeking such action may retain private counsel. The party commencing the action shall be liable for the costs if the action fails.

Liability of trustees.

County attorney shall prosecute.

Costs.

Section 71. Section 75-6001. **System of teacher certification.** In order to establish a uniform system of quality education and to insure the maintenance of professional standards, a system of teacher certification shall be established and maintained under the provisions of this title and no person shall be permitted to teach in the public schools of the state until he has obtained a teacher certificate or the district has obtained an emergency authorization of employment from the state.

System of teacher certification established.

Section 72. Section 75-6002. **Board of education policies.** To effect an orderly and uniform system of teacher certification, the board of education shall, upon the recommendation of the superintendent of public instruction and in accordance with the provisions of this title, prescribe and adopt policies for the issuance of teacher certificates. Such policies shall provide for: (1) reasonable training and experience requirements for teacher, supervisor and administrative certificates and endorse-

Board of education shall adopt policies for issuance of teacher certificates.

Training and experience.

ments thereon as provided by the certification classification in section 75-6006;

(2) the renewal of teacher certificates based on the same conditions prescribed for the initial issuance of certificates;

Renewal.

(3) the conduct of hearings on teacher certification revocation, suspension or denial;

Hearings.

(4) the issuance of emergency authorization to a district to employ a person, who is not the holder of a valid teacher certificate, as an instructor of pupils; and

Emergencies.

(5) any other policy not inconsistent with the law, which is necessary for the proper operation of a system of teacher certification.

Other policies.

Section 73. Section 75-6003. **Issuance of teacher certificates.** The superintendent of public instruction shall issue all teacher certificates in the state of Montana. In issuing teacher certificates, the superintendent of public instruction shall comply with the provisions of this title and the teacher certification policies adopted by the board of education. The superintendent of public instruction shall not issue a teacher certificate to any person who does not satisfy the qualifications or other requirements of this title and of the board of education policies for teacher certification.

State superintendent shall issue certificates.

Section 74. Section 75-6004. **Qualifications.** Any person may be certified as a teacher when he satisfies the following qualifications: (1) He is eighteen (18) years of age or older but is not more than seventy (70) years of age;

Teacher qualifications.

Ages.

(2) He has a certificate of a licensed physician attesting to his satisfactory health;

Health.

(3) He is a citizen of the United States except as provided in section 75-6005;

Citizen.

(4) He is of good moral and professional character;

Character.

(5) He has completed the teacher education program of a unit of the Montana university system, or an essentially equivalent program at an accredited institution in the United States or equal rank and standing as that of any unit of the Montana university system, and such

Education.

training shall be evidenced by at least a bachelor's degree and a certification of the completion of the teacher education program, except as provided for in subsection (4), section 75-6006; and

Oath.

(6) He has subscribed to the following oath or affirmation before an officer authorized by law to administer oaths:

"I solemnly swear (or affirm) that I will support the constitution of the United States of America, the constitution of the state of Montana, and the laws of the United States and the state of Montana, and will, by precept and example, promote respect for the flag and the institutions of the United States and the state of Montana, reverence for law and order and undivided allegiance to the government of the United States of America."

State superintendent may issue noncitizen certificates.

Section 75. Section 75-6005. **Noncitizen teacher certification.** The superintendent of public instruction may issue a class 5 provisional certificate to a person who is not a citizen of the United States when: (1) the trustees of a district request certification of such person; and

(2) he otherwise qualifies for at least a class 5 provisional certificate.

The superintendent of public instruction also may issue an annual teacher certificate to a person who is not a citizen of the United States and who is an exchange teacher from a foreign country intending to return to that country.

Classifications of certificates.

Section 76. Section 75-6006. **Classifications of teacher certificates.** The superintendent of public instruction shall issue teacher certificates and the board of education shall adopt teacher certification policies on the basis of the following classifications of teacher certificates:

Professional.

(1) Class 1. **Professional certificate.** The professional certificate may be issued to an otherwise qualified applicant who has completed a teacher education program which includes a bachelor's degree and a minimum of one year of study beyond such degree in a unit of the Montana university system or an equivalent institution. The professional certificate may be endorsed for elementary instruction, secondary instruction or both, and

for specified subject fields on the basis of the applicant's academic and professional training and according to the board of education policy for teacher certification endorsement.

Standard.

(2) Class 2. **Standard certificate.** The standard certificate may be issued to an otherwise qualified applicant who has completed a four-year teacher education program and who has been awarded a bachelor's degree by a unit of the Montana university system or an equivalent institution. The standard certificate may be endorsed for elementary instruction, secondary instruction or both, and for specified subject fields on the basis of the applicant's academic and professional training and according to the board of education policy for teacher certification endorsement.

Administrative and supervisory.

(3) Class 3. **Administrative and supervisory certificate.** The administrative and supervisory certificate may be issued to an otherwise qualified applicant who is the holder of a teacher certificate endorsed for teaching in the school or schools in which he would be an administrator or he would supervise. The applicant also shall possess the training and experience required by the policies of the board of education for an endorsement as superintendent, principal, or supervisor.

Vocational, recreational or adult education.

(4) Class 4. **Vocational, recreational, or adult education certificate.** The vocational, recreational, or adult education certificate may be issued to an otherwise qualified applicant who has the qualifications of training and experience required by the United States office of education or the qualifications required by the special needs of the several vocational, recreational, or adult education fields, and who can qualify under the policy of the board of education for the issuance of this classification of teacher certification.

Provisional.

(5) Class 5. **Provisional certificate.** The provisional certificate may be issued to an otherwise qualified applicant who can provide satisfactory evidence of his intent to qualify in the future for a class 1 or a class 2 certificate and who has completed a four-year college program or its equivalent and holds a bachelor's degree from a unit of the Montana university system or its equivalent. The provisional certificate may be endorsed for elemen-

tary instruction, secondary instruction or both, and for special subject fields on the basis of the applicant's academic and professional training and according to the board of education policy for teacher certification endorsement.

Year defined.

For purposes of evaluating the qualifications of applicants for teacher certificates, a year means the instructional period consisting of three quarters or two semesters or other terms which are recognized as an academic year by any unit of the Montana university system or equivalent institution.

Validity of outstanding teacher certificates.

Section 77. Section 75-6007. **Outstanding teacher certificates.** No provisions of this title shall affect or impair the validity of any certificate that is in force on the effective date of this act, or the rights and privileges of the holders by virtue thereof, except that any certificate may be suspended or revoked for any of the causes and by the procedures provided by law.

Renewal eligibility.

Any holder of an elementary school standard certificate issued prior to July 1, 1959, under the previous statute and in force on July 1, 1959, shall be eligible for renewal of such certificate in accordance with the policies of the board of education until the holder qualifies for the class 2 standard certificate as provided in section 75-6006.

Any holder of a class 5 certificate in force on June 30, 1966, or issued between July 1, 1966, and December 31, 1966, shall be eligible for renewal of such certificate in accordance with the policies of the board of education until the holder qualifies for the class 2 standard certificate as provided in section 75-6006.

Terms of validity.

Section 78. Section 75-6008. **Term of teacher certificates.** Any teacher certificate issued by the superintendent of public instruction shall bear the dates of issue and validity and shall be valid for a term of five (5) school fiscal years, except that class 5 provisional certificates shall be valid for two (2) school fiscal years. The period of validity for any certificate shall begin on the first day of July immediately preceding the date of issue. Teacher certificates shall be renewed for similar periods of time on the basis of the board of education policies for teacher certification renewal.

5 years.

2 years.

First day of July.

Fees $2.00.

Section 79. Section 75-6009. **Fees for teacher certificates.** Each person applying for the issuance or renewal of a teacher certificate shall pay a fee of two dollars ($2) for each school fiscal year that the certificate will be valid. In addition to this fee, each person who has never held any class of Montana teacher certificate or for whom an emergency authorization of employment has never been issued, shall pay a filing fee of two dollars ($2). Such fees shall be paid to the superintendent of public instruction, who shall deposit the fees with the state treasurer to the credit of the general fund.

$2.00.

Deposit in general fund.

Powers of board—revocation or suspension for cause.

Section 80. Section 75-6010. **Suspension, revocation and denial appeals.** The board of education shall have the power and authority to suspend or revoke the teacher certificate of any person for any of the following reasons: (1) Any reason that would have required or authorized the denial of the teacher certificate to such person if it had been known at the time such certificate was issued;

(2) By reason of incompetency, immorality, intemperance, physical inability, or conviction of a felony under state law; or

(3) By reason of the failure of the certificate holder to comply with the terms of any contract between such holder and the trustees of a district without the consent of the trustees in writing or without good cause. Such breach of contract shall constitute unprofessional conduct.

Hearing.

Whenever a substantial reason for the suspension or revocation of the teacher certificate of any person is brought to the attention of the board of education, it shall afford the person an opportunity to defend himself and his qualifications against the charge before the board. The superintendent of public instruction shall give a thirty (30) day written notification to any person when the board of education intends to consider the suspension or revocation of his certificate. The board of education shall implement an investigation of the reasons for the suspension or revocation charge and then, if the investigation warrants further action, conduct a hearing in the manner provided by board of education policies.

30 day notice.

Investigation.

First violation penalty.

After a full investigation and proper hearing, the board of education may suspend or revoke the person's teacher certificate, except that in cases of a first violation under subsection (3) above, the maximum penalty shall not be more than a suspension of the person's certificate for the current school fiscal year and the ensuing school fiscal year.

Appeal.

Whenever the superintendent of public instruction denies the issuance or the renewal of a teacher certificate to a person, he may appeal the denial to the board of education. The appeal shall be heard in the same manner provided for in this section for suspension or revocation and in accordance with the policies of the board of education. The decision of the board of education shall be final.

Emergency teacher employment.

Section 81. Section 75-6011. **Emergency authorization of employment.** Any district may request from the superintendent of public instruction an emergency authorization of employment for a person as an instructor of pupils who is not the holder of a valid teacher certificate when such district cannot secure the services of a person holding a valid certificate. The person shall have previously held a valid teacher certificate or shall meet the standards of preparation prescribed by the policies of the board of education for and during such emergency. Such emergency authorization of employment shall indicate: (1) the district to which such authorization is issued;

Qualifications.

District.

Person.

(2) the person whom the district is authorized to employ;

Subjects.

(3) the endorsement for elementary or secondary instruction and the specific subject fields for which authorization to employ such person is given; and

Fiscal year.

(4) the school fiscal year for which such emergency authorization of employment is given.

Renewal.

$2.00 fee.

Emergency authorization of employment of a person shall be valid for the school fiscal year identified on such authorization and may be renewed in accordance with the board of education policies. A fee of two dollars ($2) and, if no teacher certificate or emergency authorization of employment has ever been issued for such person, a filing fee of two dollars ($2) shall be paid for the issuance of an

$2.00 fee.

emergency authorization of employment. The superintendent of public instruction shall deposit the fees with the state treasurer to the credit of the general fund.

Deposit in general fund.

Revocation for cause.

Emergency authorization of employment of a person may be revoked for good cause in accordance with the provisions of section 75-6010.

Definitions.

Section 82. Section 75-6101. **Definitions.** As used in this title, unless the context clearly indicates otherwise:

"Teacher."

"Teacher" means any person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of education, and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher also shall include any person for whom an emergency authorization of employment of such person has been issued under the provisions of section 75-6011.

"Principal."

"Principal" means any person who holds a valid class 3 Montana teacher certificate with an applicable principal's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of education and who has been employed by a district as a principal. For the purposes of this title, any reference to a teacher shall be construed as including a principal, as herein defined.

"District superintendent."

"District superintendent" means any person who holds a valid class 3 Montana teacher certificate with a superintendent's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of education and who has been employed by a district as a district superintendent.

Teacher contracts.

Section 83. Section 75-6102. **Employment of teachers by contract.** The trustees of any district shall have the authority to employ any person as a teacher, but only a person who holds a valid Montana teacher certificate or for whom an emergency authorization of employment has been issued that qualifies such person to perform the duties prescribed by the trustees for the position of employment. Each teacher shall be employed under written contract and each contract of employment shall be authorized by a proper resolution of the trustees and shall be exe-

cuted in duplicate by the chairman of the trustees and the clerk of the district in the name of the district, and by the teacher.

Illegal provisions.

No contract of employment with a teacher shall require such teacher to teach more than five (5) days a week or on any holiday recognized by section 75-7406. No deduction shall be made from a teacher's salary by reason of the fact that a holiday falls on a school day. Any teacher's contract made in conflict with the five-days-per-week provision of this section shall not be enforceable against the teacher.

Joint board teacher contracts.

Prorate compensation.

Whenever the trustees of a county high school and the trustees of the elementary district where the county high school is located form a joint board of trustees under the provisions of section 75-5928, such joint board of trustees may execute a contract of employment with a teacher who shall serve both districts. When such a contract is executed, the two districts shall prorate the compensation provided by such contract on the basis of the total number of instructional hours expended by such teacher within each district.

Oath.

Any contract executed under the provisions of this section may contain the oath or affirmation prescribed in section 75-6004 and the teacher shall subscribe to such oath or affirmation before an officer authorized by law to administer oaths.

Section 84. Section 75-6103. **Teacher tenure.** Whenever a teacher has been elected by the offer and acceptance of a contract for the fourth consecutive year of employment by a district in a position requiring teacher certification except as a district superintendent, the teacher shall be deemed to be re-elected from year to year thereafter as a tenure teacher at the same salary and in the same or a comparable position of employment as that provided by the last executed contract with such teacher, unless: (1) the trustees resolve by majority vote of their membership to terminate the services of the teacher in accordance with the provisions of section 75-6104;

Fourth consecutive year.

Teacher tenure.

Termination by majority vote.

Closing school.

(2) the trustees close the school, as provided in section 75-6607, for which the teacher is employed; or

Age 65.

(3) the teacher will attain the age of sixty-five (65) years before the ensuing first day of September and the

trustees have notified the teacher in writing by the first day of April that his services will not be needed in the ensuing school fiscal year, except that the trustees may continue to employ such a teacher from year to year until the school fiscal year following his seventieth (70th) birthday.

Notice.

Maximum age 70.

Section 85. Section 75-6104. **Termination of tenure teacher services.** Whenever the trustees of any district resolve to terminate the services of a tenure teacher under the provisions of subsection (1) of section 75-6103, they shall notify such teacher in writing before the first day of April of such termination. Any tenure teacher who receives a notice of termination may request, in writing ten (10) days after the receipt of such notice, a written statement declaring clearly and explicitly the specific reason or reasons for the termination of his services, and the trustees shall supply such statement within ten (10) days after the request. Within ten (10) days after the tenure teacher receives the statement of reasons for termination, he may request in writing a hearing before the trustees to reconsider their termination action. When a hearing is requested, the trustees shall conduct such a hearing and reconsider their termination action within ten (10) days after the receipt of the request for a hearing. If the trustees affirm their decision to terminate the teacher's employment, the tenure teacher may appeal their decision to the county superintendent and, subsequently, either the teacher or the trustees may appeal to the superintendent of public instruction under the provision for the appeal of controversies in this title.

Termination—tenure teacher.

Notice.

Statement.

Hearing.

Appeal.

Section 86. Section 75-6105. **Notification of tenure teacher re-election.** The trustees shall provide written notice to all tenure teachers who have been re-elected by the first day of April. Any tenure teacher who does not receive notice of re-election or termination shall be automatically re-elected for the ensuing school fiscal year. Any tenure teacher who receives notification of his re-election for the ensuing school fiscal year shall provide the trustees with his written acceptance of the conditions of such re-election within twenty (20) days after the receipt of the notice of re-election, and failure to so notify the trustees within twenty (20) days shall constitute conclusive evidence of his nonacceptance of the tendered position.

Notice of re-election.

Acceptance within 20 days.

Nonacceptance.

Registration of certificates.

Section 87. Section 75-6106. **Teacher certification registration.** Any person employed as a teacher, principal, or district superintendent shall register his certificate or the district shall register its emergency authorization of employment for a teacher with the county superintendent of the county wherein he is employed in order to validate his employment status and permit payment under his employment contract. If a teacher does not register his certificate with the county superintendent within sixty (60) calendar days after the teacher begins to perform his services, he shall not be eligible to receive any further compensation under his contract of employment until he has registered his certificate. After the schools of a district have been open for sixty (60) calendar days in the current school fiscal year, the county superintendent shall notify each district of the county of each teacher who has registered his current valid certificate, and the district shall not pay any teacher who has not registered his certificate until the county superintendent does notify the district of such registration.

Within 60 days.

Notice to district.

Pay withheld.

Joint district teacher—registration.

A teacher employed by a joint district shall register his certificate with the county superintendent of the county performing the budgeting functions for the joint district, as defined in section 75-6720.

Dismissal for cause.

Section 88. Section 75-6107. **Dismissal of teacher under contract.** The trustees of any district may dismiss a teacher before the expiration of his employment contract for immorality, unfitness, incompetence, or violation of the adopted policies of such trustees. Any teacher who has been dismissed may appeal such dismissal to the county superintendent. If the county superintendent, after a hearing, determines that the dismissal by the trustees was made without good cause, he shall order the trustees to reinstate such teacher and to compensate such teacher at his contract amount for the time lost during the pending of the appeal.

Appeal.

Duties.

Section 89. Section 75-6108. **Duties of teacher.** Any teacher under contract with a district shall: (1) conform to and enforce the laws, board of education policies, and the policies of the trustees of the district;

Instruction.

(2) utilize the course of instruction prescribed by the trustees;

Teacher's register.

(3) keep, in a neat and businesslike manner, a teacher's register in the form and on the blanks prescribed by the superintendent of public instruction;

Annual report.

(4) immediately after the conclusion of each school instructional year and before the tenth (10th) day of July, prepare an annual report in the manner and on the forms prescribed by the superintendent of public instruction which shall include the pupil attendance and absence data from his teacher's register that is necessary to calculate ANB, and such report shall be submitted to:

Submission.

(a) the district superintendent, if there be one,

(b) the principal of the school, if there be one and there is no district superintendent, or

(c) the county superintendent or all county superintendents when the teacher is reporting for a joint district, if there is no district superintendent or principal;

Care of property.

(5) exercise due diligence in the care of school grounds and buildings, furniture, equipment, books and supplies; and

Instruction.

(6) provide moral and civic instruction by:

Principles.

(a) endeavoring to impress the pupils with the principles of morality, truth, justice and patriotism;

(b) teaching the pupils to avoid idleness, profanity and falsehood;

(c) instructing the pupils in the principles of free government and training them to comprehend the rights, responsibilities and dignity of American citizenship.

Salary may be withheld.

The trustees shall be authorized to withhold the salary warrant of any teacher who does not comply with the provisions of subsections (1) or (2) above until such teacher does comply with such provisions.

The trustees shall not pay any teacher his last month's salary until he has provided a complete and accurate annual report to the required person, as determined by such person, and as required in subsection (4) of this section.

Authority over pupils.

Section 90. Section 75-6109. **Power of teacher over pupils and undue punishment.** Any teacher shall have the authority to hold any pupil to a strict accountability for any disorderly conduct in school, on the way to or from

school, or during intermission or recess. Whenever a teacher shall deem it necessary to inflict corporal punishment in order to maintain orderly conduct of a pupil, he shall administer such corporal punishment without undue anger and only in the presence of the principal, if there be one. Before any corporal punishment is administered, the parent or guardian shall be notified of the teacher's intention to so punish his child; except that in cases of open and flagrant defiance of the teacher or of the authority of the school, the teacher may administer corporal punishment with giving such notice.

Corporal punishment.

Notice to parent.

Exception.

Any teacher in a district not employing a district superintendent or a principal of the school where the teacher is assigned shall have the authority to suspend a pupil for good cause. Where a district superintendent or principal is employed only he shall have the authority to suspend a pupil for good cause. Whenever a teacher suspends a pupil, he shall notify the trustees immediately of such action, and the trustees shall meet as soon as practicable to consider the suspension action of the teacher.

Suspension of pupils.

Notice to trustees.

It shall be the duty of any teacher to report the truancy or incorrigibility of any pupil to the district superintendent, principal, or the trustees, whichever is applicable.

Truancy.

Any teacher who shall maltreat or abuse any pupil by administering any undue or severe punishment shall be deemed guilty of a misdemeanor and, upon conviction of such misdemeanor by a court of competent jurisdiction, shall be fined not more than one hundred dollars ($100).

Penalties for maltreatment.

Section 91. Section 75-6110. **Abuse of teachers.** Any parent, guardian, or other person who shall insult or abuse a teacher anywhere on the school grounds or school premises shall be deemed guilty of a misdemeanor and, upon conviction of such misdemeanor by a court of competent jurisdiction, shall be fined no less than ten dollars ($10) nor more than one hundred dollars ($100).

Penalties for abuse of teachers.

Section 92. Section 75-6111. **Attendance of state teachers' association annual session.** The teachers of any district shall be allowed to attend the annual session of the state teachers' association without loss of salary for those days of the session for which the trustees close the schools of the district.

Annual session of state teachers association.

Section 93. Section 75-6112. **Appointment and dismissal of district superintendent or county high school principal.** The trustees of any high school district, except a county high school, and the trustees of the elementary district where its high school building is located shall jointly employ and appoint a district superintendent. The trustees of a county high school shall employ and appoint a district superintendent except that they may employ and appoint a holder of a class 3 teacher certificate with a district superintendent endorsement as the county high school principal in lieu of a district superintendent. The trustees of any other district may employ and appoint a district superintendent.

Trustees shall employ district superintendent.

Whenever a joint board of trustees has been formed by a county high school and the elementary district where the county high school is located, such joint board shall jointly employ and appoint a district superintendent. During the term of contract of the jointly appointed district superintendent, neither district shall separately employ and appoint a district superintendent or county high school principal.

Joint board shall employ.

The written contract of employment of a district superintendent or a county high school principal shall be authorized by the proper resolution of the trustees of the district or the joint board of trustees, and executed in duplicate by the chairman of the trustees or joint board of trustees and the clerks of the districts, in the name of the districts, and by the district superintendent or the county high school principal. Such contract shall be for a term of not more than three (3) years and, after the second successive contract, the contract shall be deemed to be renewed for a further term of one (1) year from year to year thereafter unless the trustees shall, by resolution passed by a majority vote of its membership, resolve to terminate the services of the district superintendent or the county high school principal at the expiration of his existing contract. The trustees shall take such termination action and notify the district superintendent or the county high school principal of their intent to terminate his services at the expiration of his current contract not later than the first day of February of the last year of such contract.

Contract authorized by resolution.

Term-3 year limitation.

Renewal.

Termination notice.

Whenever a joint board of trustees employs a person as the district superintendent, the elementary district

Prorata compensation.

and the county high school shall prorate the compensation provided by the contract of employment on the basis of the number of teachers employed by each district.

Discharge for invalid certificate.

At any time the class 3 teacher certification or the endorsement of the certificate of a district superintendent or a county high school principal that qualifies such person to hold such position becomes invalid, the trustees of the district or the joint board of trustees shall discharge such person as the district superintendent or county high school principal regardless of the unexpired term of his contract. The trustees shall not compensate him under the terms of his contract for any services rendered subsequent to the date of the invalidation of his teacher certificate.

Conflict of activities.

No district superintendent or county high school principal shall engage in any work or activity which the trustees may deem to be in conflict with his duties and employment as the district superintendent or county high school principal.

Duties of district superintendent.

Section 94. Section 75-6113. **Duties of district superintendent or county high school principal.** The district superintendent or county high school principal shall be the executive officer of the trustees and, subject to the direction and control of the trustees, he shall: (1) have general supervision of all schools of the district and the personnel employed by the district;

General supervision of schools.

Policies.

(2) implement and administer the policies of the trustees of the district;

Instruction.

(3) develop and recommend courses of instruction to the trustees for their consideration and approval in accordance with the provisions of sections 75-7503 and 75-7504;

Textbooks.

(4) select all textbooks and submit such selections to the trustees for their approval in accordance with the provisions of section 75-7603;

Other books.

(5) select all reference and library books and submit such selections to the trustees for their approval in accordance with provisions of section 75-7519;

Pupils.

(6) have general supervision of all pupils of the district, and shall enforce the compulsory attendance provisions of this title, and shall have the authority to suspend

for good cause any pupil of the district until the trustees may consider such suspension;

Reports.

(7) report the cumulative pupil attendance and pupil absence of the district and any other pupil information required by the report form prescribed by the superintendent of public instruction to the county superintendent or county superintendents when reporting for a joint district, immediately after the conclusion of the school instructional year and before the tenth (10th) day of July; and

Other duties.

(8) perform any other duties in connection with the district as the trustees may prescribe.

Duties of principal.

Section 95. Section 75-6114. **Duties of principal.** Whenever the trustees of a district employ and appoint a school principal but do not employ and appoint a district superintendent, such principal shall perform the duties of a district superintendent as prescribed in subsections (4), (5), (6), (7), and (8) of section 75-6113, and shall have general supervision of such school and the personnel assigned to such school.

Definitions.

Section 96. Section 75-6201. **Definitions.** As used in this title, unless the context clearly indicates otherwise:

"Retirement system."

(1) "Retirement system" means the Teacher's Retirement System of the State of Montana provided for in section 75-6202.

"Retirement board."

(2) "Retirement board" means the retirement system's governing board provided by section 75-6203.

"Employer."

(3) "Employer" means the State of Montana, trustees of any district, or other agency or subdivision of the state which employs a person who is designated a member of the retirement system.

"Member."

(4) "Member" means any person who has an individual account in the annuity savings fund; an active member is any person included under the provisions of section 75-6209; an inactive member is any person included under the provisions of section 75-6210.

"Beneficiary."

(5) "Beneficiary" means any person in receipt of a pension, annuity, a retirement allowance, or other benefit as provided by the retirement system.

"Service."

(6) "Service" means the performance of such instructional duties or related activities as would entitle the per-

son to active membership in the retirement system under the provisions of section 75-6209.

"Prior service." (7) "Prior Service" means employment of the same nature as service defined in subsection (6) of this section but rendered before September 1, 1937.

"Credible service." (8) "Credible (sic) service" is that service defined by section 75-6212.

"Regular interest." (9) "Regular interest" means interest at four per cent (4%) per annum compounded annually, or at such other rate as may be set by the retirement board in accordance with subsection (2) of section 75-6206.

"Accumulated contributions." (10) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to his individual account in the annuity savings fund, together with interest. Regular interest shall be computed and allowed to provide a benefit at the time of retirement.

"Earnable compensation." (11) "Earnable compensation" means the full rate of the compensation, pay or salary that would be payable to a member if he worked the full normal working time. In cases where compensation includes maintenance, the retirement board shall fix the value of that part of the compensation not paid in money.

"Average final compensation." (12) "Average final compensation" means the average of the earnable compensation of any three (3) consecutive years on which the five per cent (5%) contribution has been made by the member.

"Annuity." (13) "Annuity" means the payments made to a beneficiary for life which are derived from a member's accumulated contributions. All annuities shall be paid in equal monthly installments. The retirement board may make an annual payment to the beneficiaries of the difference between the rate of interest used in calculating the benefit from the annuity reserve fund and the interest earned on investments.

"Pension." (14) "Pension" means the payments made to a beneficiary for life which are paid into the pension fund derived from money accumulated by employers. All pensions shall be paid in equal monthly installments.

"Retirement allowance." (15) "Retirement allowance" means the annuity plus the pension.

"Annuity reserve." (16) "Annuity reserve" means the present value of all payments to be made on account of a member's annuity and computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

"Pension reserve." (17) "Pension reserve" means the present value of all payments to be made on account of a pension and computed on the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

"Actuarial equivalent." (18) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

"Former retirement system." (19) "Former retirement system" means the retirement system established under sections 1113 to 1132 inclusive, of the Revised Codes of Montana, 1935.

Section 97. Section 75-6202. **Retirement system.** The state teachers' retirement system created under the provisions of chapter 87, Laws of 1937 is hereby recognized as the state teachers' retirement system of the State of Montana and no provisions of this act shall affect or impair the validity of any action taken by its governing board or the rights of any person arising under the provisions of chapter 87, Laws of 1937 or any subsequent amendment thereto. Such state teachers' retirement system shall be known as "The Teachers' Retirement System of the State of Montana" and in that name shall transact all business of the retirement system, invest its funds, hold its assets in trust, and have such powers and privileges of a corporation that may be necessary to carry into effect the provisions of this title.

The teachers' *retirement system* of the state of Montana.

Section 98. Section 75-6203. **Retirement board.** The governing board of the Teachers' Retirement System of the State of Montana shall be: (1) the superintendent of public instruction;

Composition of governing board.

(2) two (2) persons appointed from the teaching profession who are members of the retirement system; and

(3) two (2) persons appointed as representatives of the public.

Each appointed member of the governing board shall be

4 year terms. appointed by the governor to serve a term of four (4) years and until his successor has been appointed and qualified. When a vacancy occurs in the position of an appointed member of the governing board, the governor shall appoint a person to serve the unexpired term for such position.

Attorney general—legal advisor. The attorney general shall be the legal advisor of the governing board.

Oath. Each appointed member of the governing board shall take and subscribe to the oath prescribed by section 1 of article XIX of the constitution of the State of Montana, and such oath shall be filed in the office of the secretary of state.

Quorum. A majority of the members of the governing board shall constitute a quorum for the transaction of any business.

Section 99. Section 75-6204. **Per diem and expenses.** The members of the retirement board shall serve without direct or indirect compensation except that each appointed member shall receive twenty dollars ($20) per day and his necessary and actual expenses incurred for each day in attendance at the meetings of such board or in the execution of his duties as a member of the retirement board. Any appointed member's per diem reimbursement for any fiscal year shall not be more than three hundred dollars ($300). All per diem and expenses paid under the provisions of this section shall be paid from the expense fund of the retirement system.

$20.00 per day and expenses.

Limitation $300.00 per fiscal year.

Expense fund.

Section 100. Section 75-6205. **Powers and duties.** The retirement board shall have the power and it shall be its duty to administer and operate the retirement system within the limitations prescribed by this title. To this end, it shall be the duty of the retirement board to: (1) establish rules and regulations necessary for the proper administration and operation of the retirement system;

Authority to administer.

Duties.

Rules.

Chairman. (2) elect a chairman from its membership;

Secretary. (3) appoint a secretary who may be one (1) of its members;

Employment of personnel. (4) employ technical or administrative employees who are necessary for the transaction of the business of the retirement system;

Expenditures. (5) approve or disapprove all expenditures necessary for the proper operation of the retirement system;

Records. (6) keep a record of all its proceedings which shall be open to public inspection;

Biennial report. (7) publish a biennial report by the first day of January of each year the legislative assembly meets that shall report in detail the fiscal transactions for the two (2) fiscal years immediately preceding the report due date, the amount of the accumulated cash and securities of the retirement system and the last fiscal year balance sheet showing the assets and liabilities of the retirement system, and submit such biennial report to the governor and furnish copies to the legislative assembly;

Medical board. (8) when the retirement board deems it necessary, designate a medical board to be composed of three physicians, who are not eligible to participate in the retirement system to investigate and report to the retirement board on all medical matters related to the administration of the retirement system;

Actuarial data. (9) keep in convenient form that data which is necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the retirement system;

Actuary. (10) designate an actuary to assist the retirement board with the technical actuarial aspects of the operation of the retirement system, which shall include establishing mortality and service tables and making an actuarial investigation at least once every five (5) years into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system;

Annual valuation. (11) prepare an annual valuation of the assets and liabilities of the retirement system;

Eligibility. (12) determine the eligibility of a person to become a member of the retirement system in accordance with the provisions of section 75-6209;

Forms. (13) prescribe a form for membership application which will provide adequate and necessary information for the proper operation of the retirement system;

Determination of creditable service. (14) adopt policies for the determination of creditable service in the retirement system implementing the following guidelines:

(a) One (1) year's creditable service shall be awarded for each year of full-time service, outside of vacation periods, but no more than one (1) year's creditable service shall be awarded for service during the same school fiscal year.

(b) A proportion of a year's creditable service shall be allowed for part-time service. An equitable proration of a year's creditable service shall be awarded for part-time service.

(c) Not more than one (1) month's creditable service shall be awarded for one (1) or more continuous months of absence without pay.

Grant benefits.

(15) grant retirement, disability, and other benefits under the provisions of section 75-6208;

Rates of interest.

(16) annually determine the rate of regular interest as prescribed in section 75-6206;

Funds.

(17) establish and maintain the funds of the retirement system in accordance with the provisions of section 75-6207; and

Other duties.

(18) perform such other duties and functions as are required to properly administer and operate the retirement system.

Section 101. Section 75-6206. **Financial administration of monies.** The retirement board shall be the trustees of all monies collected for the retirement system and as such trustees they shall provide for the financial administration of the monies in the following manner: (1) The monies shall be invested and reinvested by the state board of land commissioners.

Trustees of all monies.

Investments.

Rates of interest.

(2) The retirement board annually shall establish the rate of regular interest on the basis of the interest earnings of the retirement system for the preceding year and of the probable earnings to be made, in the judgment of the board, during the immediate future.

Division among funds.

(3) The retirement board annually shall divide among the several funds of the retirement system an amount equal to the average balance of such funds during the preceding fiscal year multiplied by the rate of regular interest. In accordance with the provisions of subsection (3) (e) of section 75-6207, the amount to be credited to

each fund shall be allocated from the interest and other earnings on the monies of the retirement system actually realized during the preceding fiscal year, less the amount allocated to the expense fund under the provisions of subsection (5) (b) of section 75-6207.

State treasurer is custodian.

(4) The state treasurer is the custodian of the collected retirement system monies and of the securities in which said monies are invested. All expenditures from such monies shall be made only upon claims signed by two (2) persons designated by the retirement board. A properly attested copy of a resolution of the retirement board designating such persons and bearing on its face specimen signatures of each person shall be filed with the state controller as his authority for approving such claims.

Conflicts of interest forbidden.

(5) Except as herein provided no member of the retirement board nor any of its employees shall have an interest, direct or indirect, in the gains or profits of any investment of monies of the retirement system. No member of the retirement board nor any of its employees shall directly or indirectly for himself or as an agent in any manner use the monies or deposits of the retirement system except to make such current and necessary expenditures as are authorized by the retirement board. No member of the retirement board nor any of its employees shall become an endorser or surety or in any manner an obligor for monies loaned by or borrowed from the retirement system.

Transfer of monies.

(6) The retirement board may in its discretion transfer the amount in the annuity savings account of an inactive member to the pension accumulation fund if the account has been dormant for a period of seven (7) years. No right of the member shall be jeopardized by such transfer and the amount shall be transferred back to the member's annuity savings account upon his request.

Accounts.

(7) All the funds established by section 75-6207, except the expense fund, shall be accounts in the agency fund of the treasury fund structure of the state. The expense fund shall be an account in the earmarked revenue fund of the same treasury fund structure.

Section 102. Section 75-6207. **Method of financing.** The retirement board shall establish and maintain the following funds in which all of the assets of the retire-

Board shall establish funds.

ment system shall be credited according to the purpose for which the assets are held. (1) **Annuity savings fund.** The annuity savings fund shall be a fund in which the contributions from the members to provide for their annuities shall be accumulated in individual accounts for each member. Contributions to and payments from the annuity savings fund shall be made in the following manner.

Annuity savings fund.

Pay roll deductions.

(a) Each employer shall deduct from the compensation of each active member on each and every payroll of such member for each and every payroll period subsequent to the date on which such member became a member an amount equal to five per cent (5%) of such member's earnable compensation, but no employer shall make any deductions for annuity purposes from the compensation of a member who has attained the age of sixty (60) and rendered thirty-five (35) years of creditable service if such member elects not to contribute.

5% limitations.

Determination of amount earnable.

(b) In determining the amount earnable by an active member in a payroll period, the retirement board may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not an active member on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth (1/10) of one per cent (1%) of the annual compensation upon the basis of which said deduction is to be made.

Modified deuctions.

Implied consent.

(c) Such deductions shall be made notwithstanding that the *minimum* compensation provided by law for a member may be reduced thereby. Every member shall be deemed to consent and agree to the deductions prescribed by this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims whatsoever for the services rendered by such person during the period covered by such payment except as to the benefits provided by the retirement system.

(d) In addition to the contributions deducted from compensation and subject to the approval of the retire-

ment board, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the accumulated contributions, or any part thereof, which he had previously withdrawn; or any member may deposit therein by a single payment or by an increased rate of contribution amounts for the purchase of an additional annuity. Such additional amounts so deposited shall become a part of his accumulated contributions. In the case of disability retirement, they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his retirement allowance. The accumulated contributions of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death shall be paid from the annuity savings fund, and an amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid shall be transferred to the pension accumulation fund. Upon the retirement of a member his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

Member may deposit contributions.

Disability retirement.

Payment.

Transfer of monies to other funds.

(2) **Annuity reserve fund.** The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

Annuity reserve fund.

(3) **Pension accumulation fund.** The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and from which pensions and benefits in lieu thereof shall be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund shall be made as follows:

Pension accumulation fund.

(a) Each employer shall pay into the pension accumulation fund an amount equal to four and one-half per cent (4½%) of the earnable compensation of each member employed during the whole or a part of the preced-

Employer contributions—4½%.

ing payroll period. Such employer's contribution shall be four per cent (4%) for each payroll period after the first day of July, nineteen hundred and seventy-nine (1979).

4%.

(b) If the employer is a district or community college district, the trustees shall budget and pay for the employer's contribution under the provisions of section 75-7204.

Trustees shall budget.

(c) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a unit of the Montana university system or the Montana state deaf and blind school, the legislative assembly shall appropriate to each employer an adequate amount to allow the payment of the employer's contribution.

Appropriations.

(d) If the employer is a county, the county commissioners shall budget and pay for the employer's contribution in the manner provided by law for the adoption of a county budget and for payments under such budget.

County commissioners shall budget.

(e) All interest and other earnings realized on the monies of the retirement system shall be credited to the pension accumulation fund and the amounts required to allow regular interest on the annuity savings fund, the annuity reserve fund and the pension reserve fund shall be transferred to the respective funds from the pension accumulation fund.

Earnings.

(f) All pensions and benefits in lieu thereof, including pensions payable under section 75-6218, with the exception of those payable to members not entitled to prior service credit shall be paid from the pension accumulation fund.

Payment of pensions.

(g) The retirement board may in its discretion transfer to and from the pension accumulation fund the amount of any surplus or deficit which may develop in the reserve creditable to the annuity reserve fund or the pension reserve fund, as shown by actuarial valuation, and also such expenses as hereinafter provided.

Transfer of surplus deficit.

(h) Upon the retirement of a member who does not have a prior service certificate, the actuarial equivalent of his pension shall be transferred from the pension accumulation fund to the pension reserve fund.

Transfer to pension reserve.

(4) **Pension reserve fund.** The pension reserve fund shall be the fund in which shall be held the reserves on all pensions granted to members not entitled to prior service

Pension reserve fund.

credit and from which shall be paid such pensions and benefits in lieu thereof. Should a member not entitled to prior service credit who has been retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, the pension reserve held on account of his pension shall be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of such a disability beneficiary be reduced as a result of an increase in his earning capacity the amount of annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

Transfer to pension accumulation fund.

(5) **Expense fund.** The expense fund shall be the fund to which shall be credited all monies contributed for the administrative expenses of the retirement system and from which the expenses of administration of the retirement system shall be paid exclusive of amounts payable as retirement allowances or other benefits. The retirement board shall determine annually the amount required for the expense fund to defray the administrative expense in the ensuing fiscal year. Contributions shall be made to the expense fund as follows:

Expense fund.

(a) There shall be deducted from the compensation of each member by his employer the sum of one dollar for each year, in addition to all other deductions herein prescribed. The sum of such administrative assessments shall be paid to the retirement board by each employer in the same manner provided for the payment of the employee contributions. The administrative assessments shall be credited to the expense fund by the retirement board.

Payroll deduction—$1.00 per year to expense fund.

(b) That portion of the expense fund not financed under subsection (a) shall be paid from interest and other earnings realized on the monies of the retirement system.

Section 103. Section 75-6208. **Benefits.** The retirement, disability and other benefits of the retirement system shall be granted on the basis of the following provisions: (1) Superannuation member retirement;

(a) Any member who has completed five (5) years of creditable service, the last five (5) years of which shall have been in this state, and who has attained the age of sixty (60) may retire from service, if he files with the

Retirement.

5 years service—age 60.

Application. retirement board his written application setting forth the fact of his retirement.

Age 70. (b) Any member in service who has attained the age of seventy (70) years during any school year shall be retired on the first day of September following his seventieth

Exception. birthday, except that this provision shall not apply to teachers in the Montana university system who may be employed beyond the age of seventy (70) upon the recommendation of the president of the employing unit to the board of regents. Members over seventy (70) years of age shall not: (1) be allowed creditable service for services rendered after the end of the school year in which the age of seventy (70) is attained, (2) contribute to the retirement system after the end of such school year, and (3) have the compensation received after the end of such school

Employment beyond age 70. year used in computing average final salary. Initial employment of teachers in the Montana university system beyond the age of seventy (70) may be made upon the recommendation of the president of the employing unit and the approval of the board of regents but such employees shall be denied membership in the retirement system.

Employment—retired members. (c) Any retired member may be employed as a teacher in Montana and may earn an amount not to exceed one-fourth (¼) of his average final compensation without loss of retirement benefits.

Retirement allowances. (2) Allowance for superannuation retirement. Upon superannuation retirement a member shall receive a retirement allowance based upon the following provisions:

Annuity. (a) He shall receive an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

Pension. (b) He also shall receive a pension of one-quarter (¼) of his average final compensation provided his creditable service is at least thirty-five (35) years, otherwise, a pension of one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of his creditable service.

Additional pension. (c) If he has a prior service certificate in full force and effect, he also shall receive an additional pension which shall be equal to one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

Minimum allowances. (d) The minimum annual retirement allowance for a member who has completed thirty (30) years service and who retired after September 1, 1937, and before June 30, 1948, shall be fifteen hundred dollars ($1,500) and the

$1,500.00 per annum. minimum retirement allowance for a member who retired after September 1, 1937, and before June 30, 1948, but whose service is less than thirty (30) years shall receive a minimum retirement allowance based on the proportionate amount of fifteen hundred dollars ($1,500) that his service bears to thirty (30) years of service.

$1,500.00 per annum. (e) The minimum annual retirement allowance for a member who has completed thirty-five (35) years of service and who retires after June 30, 1949, shall be fifteen hundred dollars ($1,500).

Increase 2%. (f) Each member receiving a superannuation allowance on June 30, 1967, shall be entitled to an increase in his original retirement allowance of two per cent (2%) for each year he has been retired between July 1, 1937, and June 30, 1967, but if he is eligible under subsections (2)(d) or (2)(e) above and the benefit thereunder is larger than the increased retirement allowance prescribed herein, this provision shall not apply.

Refund on death. (g) In the event a member retired on a superannuation allowance has not received more than three (3) retirement payments prior to death, the beneficiary of the member shall receive a refund of the difference between the total retirement allowance paid and the amount of the accumulated contributions.

(3) Disability member retirement:

Application for disability retirement. (a) Upon the application of an active member or of his employer, any active member who has five (5) or more years of creditable service may be retired by the retirement board not less than thirty (30) and not more than ninety (90) days after the date of filing such application on a disability retirement allowance. Before any member

Certification by medical board. shall be eligible for a disability retirement, the medical board of the retirement system shall certify that he is mentally or physically incapacitated for the further performance of his duties, that such incapacity is likely to be permanent and that he should be retired.

(b) If the applicant for disability retirement was prevented because of the disability from making application

at the time of the commencement of his disability, the retirement board shall grant the disability retirement upon the proper application for disability retirement allowance and make payments retroactive to the thirtieth day after the date of commencement of his disability.

Retroactive payment.

(c) Re-examination of beneficiaries retired on account of disability. Once each year during the first five (5) years following the retirement of a member on disability retirement allowance, and once in every three (3) year period thereafter the retirement board may, and upon his application shall, require a disability beneficiary who has has not yet attained the age of sixty (60) to undergo a medical examination by the medical board or a physician or physicians designated by the medical board. The examination shall be made at the place of residence of the beneficiary or other place mutually agreed upon. Should any disability beneficary who has not yet attained the age of sixty (60) refuse to submit to at least one (1) medical examination in any year by the medical board or its representative, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year, all his rights in and to his disability pension may be revoked by the retirement board.

Annual re-examinations.

Refusal.

Allowance discontinued.

(d) Should the medical board report and certify to the retirement board that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be changed later, the amount of his pension may be further modified but the new pension shall not exceed the amount of the pension originally granted, nor an amount which when added to the amount earnable by the beneficiary, together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced benefit.

Certification of gainful employment.

Reduced pension.

Further modification.

Restored to service —not a member.

(e) Should a disability beneficiary under age sixty (60) be restored to active service at a compensation not less than his average final compensation, his retirement allowance shall cease, and he shall again become an active member of the retirement system. Any prior service certificate on the basis of which his service was computed at the time of his disability retirement shall be restored to full force and effect an addition upon his subsequent retirement, he shall be credited with all his subsequent service as a member. Should he be restored to active service on or after the attainment of the age of fifty-five (55) years, his pension upon subsequent retirement shall not exceed the pension that he would have received had he remained in service during the period of his previous retirement nor the sum of the pension which he was receiving immdeiately prior to his last restoration to service and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new member.

Restored to service under age 60.

Active member.

Computation of benefits.

Age 55 or older.

(4) Allowance for disability retirement. Upon retirement for disability, a member shall receive a superannuation allowance prescribed under subsection (2) above if he is eligible, otherwise he shall receive a disability retirement allowance which shall consist of:

Disability retirement allowance.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement.

Annuity.

(b) A pension which, together with his annuity, shall provide a total retirement allowance equal to ninety per cent (90%) of one seventieth (1/70) of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds one-quarter (¼) of his average final compensation; otherwise, a pension which, together with his annuity, shall provide a total retirement allowance equal to one-quarter (¼) of his average final compensation, provided, however, that no such allowance shall exceed ninety per cent (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years which would be creditable to him were his service to continue until the attainment of the minimum age for superannuation retirement.

Pension.

(c) In the event payments made to a person retired because of disability do not equal the amount of his accumu-

Difference paid to beneficiary.

lated contributions prior to his death, the difference between the total retirement allowance paid and the amount of the accumulated contributions of the member shall be paid to the beneficary.

Inactive member may withdraw contributions.

(5) Withdrawal of accumulated contributions. Any inactive member electing to do so or any person whose membership terminates shall withdraw his accumulated contributions to his annuity account in the retirement system in accordance with the following provisions:

Inactive member may elect not to withdraw.

(a) An inactive member under the provisions of subsections (1) or (3) of section 75-6210 may elect, without right of revocation to withdraw his accumulated contributions, and if he does not withdraw his accumulated contributions he shall thereafter remain an inactive member of the retirement system with the right to qualify for the benefits of the retirement system;

Benefits.

Withdrawal on failure to return.

(b) Upon recovery from a disabling illness or separation from the armed forces, any person qualifying as an inactive member under the provisions of subsection (2) of section 75-6210 shall withdraw his accumulated contributions unless he returns to active membership.

Withdrawal on termination.

(c) Any person whose membership terminates under the provisions of subsection (4) of section 75-6211 shall withdraw his accumulated contributions.

Payment.

Any person withdrawing his accumulated contributions shall be paid the amount he contributed, less any unpaid membership fees. The accumulated interest credited to his annuity account shall be transferred to the pension accumulation fund.

Transfer of interest.

Allowances on death.

(6) Allowances for death of member.

Payable to estate or designated person.

(a) Should a member die before retirement the amount of the member's accumulated contributions shall be paid to his estate or such person as he may have designated in the manner prescribed by the retirement board which shall be filed with the board prior to the member's death.

Beneficiary may elect annuity.

(b) In lieu of benefits provided in (a) above, if the deceased member had qualified by reason of service for a retirement benefit, the beneficiary nominated by the deceased member may elect to receive a monthly life annuity. The monthly life annuity shall be based on the beneficiary's attained age at the time of the deceased member's

death and calculated from an amount equal to the required reserve for the deceased member's creditable service, together with the deceased member's accumulated contributions.

(c) If the deceased member had five (5) or more years of creditable service and was an active member in the State of Montana within one (1) year prior to his death, the sum of fifty dollars ($50) per month shall be paid to each minor child of the deceased member until such child reaches his eighteenth (18th) birthday.

$50.00 per month to each child under age 18.

Optional allowances.

(7) Optional allowances. With the provision that no optional selection shall be effective in case a beneficiary dies within thirty (30) days after retirement, and that such a beneficiary shall be considered as an active member at the time of his death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement or disability allowance payable throughout life as hereinabove provided, or he may on retirement elect to receive the actuarial equivalent at that time of his retirement or disability allowance in a lesser retirement allowance payable throughout life with the provisions that:

Member's options.

On death payment of balance of accumulated contributions.

(a) Option 1. If he dies before he has received in payment of his annuity the amount of his accumulated contributions as they were at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board; or

Retirement allowance paid to named beneficiary for life.

(b) Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

One-half paid for life of named beneficiary.

(c) Option 3. Upon his death, one-half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

Other benefits.

(d) Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of

his retirement, except such other benefit or benefits, together with the lesser retirement allowance shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the retirement board.

Active members of retirement system—eligibility.

Section 104. Section 75-6209. **Active membership.** Any of the following persons shall be active members of the retirement system unless otherwise provided by this title, except for those persons who became eligible for membership on the first day of September, nineteen hundred and thirty-seven (1937) or on the first day of September, nineteen hundred and thirty-nine (1939) and who elected not to be a member under the provisions of the law at that time: (1) Any person who is a teacher, principal or district superintendent as defined under the provisions of section 75-6101.

(2) Any person who is an administrative officer or a member of the instructional or scientific staff of a unit of the Montana university system.

(3) Any person employed in an instructional services capacity by the office of the superintendent of public instruction, the office of a county superintendent, a public institution of the State of Montana, the Montana state deaf and blind school, or a district.

(4) Any person who shall have elected not to become a member of the retirement system and is re-entering service in a capacity prescribed by subsections (1), (2) and (3) above.

(5) Any person who shall have elected not to become a member of the retirement system, who has been continuously employed in a capacity prescribed by subsection (1), (2) or (3) above since the time of such election and who may thereafter elect to become a member of the retirement system.

Employment.

Any person who is designated a member by this section shall be employed full-time, outside of vacation periods, in the capacity prescribed for his eligibility; except that when a person is employed less than full-time, the retirement board may allow such person to become a member

Compensation.

of the retirement system. The compensation for the creditable service of any person who is designated a member by this section shall be totally paid by an employer as defined

herein, except that when this requirement is not satisfied, the retirement board may allow such a person to become a member of the retirement system. At any time a person's eligibility to become a member of the retirement system is in doubt, the retirement board shall determine his eligibility for membership.

Inactive membership.

Section 105. Section 75-6210. **Inactive membership.** Any person's active membership in the retirement system shall terminate, but he shall be an inactive member when: (1) he ceases to be employed in a capacity that allows his membership and he has five (5) or more years of creditable service in the retirement system;

(2) he ceases to be employed in a capacity that allows his membership and he has less than five (5) years of creditable service in the retirement system, but his loss of capacity to be a member was caused by a personal illness determined by the retirement board to be a disability or was caused by service in the armed forces of the United States which includes the army, navy, marine corps, airforce and coast guard, or by service in the American Red Cross or merchant marine during time of war; or

(3) he has five (5) or more years creditable service and he becomes a member of any other retirement or pension system supported wholly or in part by monies of another government agency, except the federal social security retirement system, and the membership in the other retirement system would allow credit for the same employment service in two retirement systems. However, no person shall be excluded from active membership solely because he is receiving or is eligible to receive retirement benefits from another retirement system.

Membership termination.

Section 106. Section 75-6211. **Membership termination** The active or inactive membership in the retirement system of any person shall terminate when: (1) he retires on a retirement allowance of the retirement system;

(2) he dies;

(3) he withdraws his accumulated contribution to the retirement system under the provisions of subsection (5) of section 75-6208; or

(4) he ceases to be employed in a capacity that allows his membership, he has less than five (5) years of credit-

able service in the retirement system, and he cannot qualify under the provisions of subsection (2) of section 75-6210.

Application for membership.

Section 107. Section 75-6212. **Membership application and creditable service.** Whenever a person becomes eligible for membership in the retirement system, he shall apply for such membership on the application form prescribed by the retirement board. The creditable service of a member shall begin on the receipt of the membership application by the retirement board and shall accumulate to the member's credit on the basis of the retirement board's policy governing creditable service.

Form.

Creditable service defined.

The creditable service of any member shall include the following: (1) each year of service of a member for which contributions to the retirement system were deducted from his compensation under the provisions of chapter 87, Laws of 1937, chapter 215, Laws of 1939, this act, and their subsequent amendments, except that no credit shall be awarded for those years of service for which the contributions have been withdrawn and not replaced, plus

(2) any out-of-state employment service awarded by the retirement board under the provisions of section 75-6213; plus

(3) any service awarded by a prior service certificate issued under the provisions of chapter 87, Laws of 1937, chapter 215, Laws of 1939 and their subsequent amendments, or under the provisions of section 75-6213.

Retirement board shall establish.

The creditable service established by the retirement board under the provisions of this section shall be final and conclusive for the purposes of the retirement system unless, at any time, the retirement board discovers an error or fraud in the establishment of the creditable service, in which case the retirement board shall reestablish the creditable service.

Out-of-state service.

Section 108. Section 75-6213. **Creditable service for out-of-state employment and before September, 1937.** Any person applying for membership also may apply for creditable service in the retirement system for out-of-state employment service that would have been acceptable under the provisions of this title if such service were performed in the state of Montana. The person shall be awarded creditable service, conditional upon his completing five (5) years of active membership in Montana, for the number of years the retirement board determines to be creditable service but for not more than five (5) years, if he contributes to the retirement system an amount equal to five per cent (5%) of his first year's salary earned in Montana for each year of creditable service. The contributions may be a lump sum payment or in installments as agreed between the person and the retirement board.

Completion of 5 years active membership.

Contribution 5% of first year salary.

Whenever a member is retiring with at least ten (10) years of creditable service and he has been an active member for at least five consecutive school fiscal years, he may request creditable service for any employment service he rendered prior to the first day of September, nineteen hundred and thirty-seven (1937) for which he has not received a prior service certificate. In order to receive such creditable service, he shall apply for it and provide certification of such service. The retirement board shall determine the amount of creditable service to be awarded, if any, and issue a prior service certificate.

Request for creditable service.

Duties of employer. Payroll deductions.

Section 109. Section 75-6214. **Duties of employer.** It shall be the duty of each employer to: (1) deduct the contribution of each member employed by him at the rate prescribed by subsection (1) of section 75-6207 from each salary payment for each payroll period, and transmit the contribution each month to the secretary of the retirement board;

Employer's contribution.

(2) pay to the secretary of the retirement board the employer's contribution prescribed by subsection (3) of section 75-6207 at the time that the employee contributions are transmitted to the secretary of the retirement board;

Records.

(3) keep records and, as required by the retirement board, furnish information to the retirement board that is required in the discharge of the retirement board's duties;

Duty to inform employee.

(4) upon the employment of any person who is required to become a member of the retirement system, inform him of his rights and obligations related to the retirement system. Each person accepting such employ-

ment shall be deemed to consent to membership and to the withholding of the contributions from his compensation;

Certify names.

(5) at the request of the retirement board, certify the names of all persons who are eligible for membership or are members of the retirement board; and

Notice to board.

(6) notify the retirement board of the employment of a person eligible for membership and forward his membership application to the retirement board.

Exemptions.

Section 110. Section 75-6215. **Exemption from taxation, execution and assignment.** The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are hereby exempted from any state, county or municipal tax of the state of Montana, and shall not be subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process whatsoever and shall be unassignable except as specifically provided.

Obligations of state of Montana.

Section 111. Section 75-6216. **Guarantee by state.** Regular interest charges payable, the creation and maintenance of reserves in the pension accumulation fund and the maintenance of annuity reserves in the annuity reserve fund and of pension reserves in the pension reserve fund as provided for in this title and the payment of all annuities, pensions, refunds, and other benefits granted under the retirement system are hereby made obligations of the state of Montana.

Penalties for fraud.

Section 112. Section 75-6217. **Protection against fraud.** Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a misdemeanor and shall be punishable therefor under the laws of the state of Montana.

Correction of errors.

Should any change or error in records result in any member or beneficiary receiving from the retirement more or less than he would have been entitled to receive had the records been correct, then on discovery of any such error, the retirement board shall correct such error, and as far as practicable, shall adjust the payments in such a manner that

the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

Discontinuance under former system.

Section 113. Section 75-6218. **Discontinuance of former retirement system.** On and after the first day of September, 1937, no further retirement shall be made under the provisions of the law governing the former retirement system and no benefits shall be paid either from the public school teachers' retirement salary fund, or from the public school teachers' permanent fund as established under such law, except as herein described.

Transfer of assets.

All assets held in the funds maintained under said law on the first day of September, 1937, shall be transferred to the pension accumulation fund of the retirement system to be held in trust and invested as a trust fund and disbursed only in payment of benefits to those teachers on whose account they were contributed. The retirement salaries of all persons entitled to retirement salaries from the former retirement system on September 1, 1937, shall be paid beginning as of September 1, 1937, from such trust fund.

Retired teacher under former system.

Any person who, having retired upon a retirement allowance under the former retirement system, shall have retired after having served as a teacher for at least twenty-five (25) school years, fifteen (15) of which, including the last ten (10) years, shall have been in the schools of this state, and who shall elect under this section to receive his interest in said public school teachers' retirement salary fund and said public school teachers' permanent fund in the form of an annuity, shall be entitled, while he shall remain retired, to receive and be paid from the said pension accumulation fund an annual allowance which, together with his said annuity, shall equal the sum of nine hundred dollars ($900). Any other person retired upon such allowance who shall elect to receive his interest in said funds in the form of an annuity shall, upon reaching the age of sixty (60) years, be entitled, while he shall remain retired, to receive and be paid from the said pension accumulation fund an annual allowance, which together with his said annuity shall equal a sum which shall be that proportion of nine hundred dollars ($900) which the number of school years which he shall have served as a teacher, and credited under the former retirement system bears to twenty-five (25).

$900.00 per annum.

Other persons.

Age 60.

Proportion of $900.00.

Section 114. Section 75-6301. **Definition.** As used in this title, unless the context clearly indicates otherwise, "pupil" means any child who is six (6) years of age or older but has not yet reached his twenty-first birthday and who is enrolled in a school established and maintained under the laws of the state of Montana at public expense.

"Pupil" defined.

School admittance.

Section 115. Section 75-6302. **Admittance of child to school.** The trustees shall assign and admit any child to a school in the district, when the child is: (1) six (6) years of age or older but has not yet reached his twenty-first birthday;

Age.

(2) a resident of the district; and

Resident.

(3) otherwise qualified under the provisions of this title to be admitted to such school.

Qualified.

First grade age requirements.

In complying with subsection (1) above, the trustees shall have the authority to establish reasonable age requirements for entry into the first grade so long as an otherwise qualified child is permitted to enter the first grade some time during his seventh year or earlier.

Nonresident child.

The trustees of any district shall have the authority to assign and admit any nonresident child to a school in the district under the tuition provisions of this title.

Compulsory enrollment.

Section 116. Section 75-6303. **Compulsory enrollment and excuses.** Any parent, guardian or other person who is responsible for the care of any child who is seven (7) years of age or older prior to the first day of school in any school fiscal year and has not yet reached his sixteenth birthday, or of a child who has not completed the work of the eighth (8th) grade, shall cause the child to be instructed in the English language and in the subjects prescribed by section 75-7503 or section 75-7504, whichever is applicable. Such parent, guardian or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when he establishes residence in the district unless: (1) the child is enrolled in a private institution which provides instruction in the subjects prescribed by section 75-7503 or section 75-7504, whichever is applicable, and in which the basic language taught is English;

Exceptions.

Private school.

(2) the child is enrolled in a school of another district or state under any of the tuition provisions of this title;

Other school.

(3) the child is provided with supervised correspondence study or supervised home study under the transportation provisions of this title; or

Home study.

(4) the child is excused from enrollment in a school of the district when it is shown that his bodily or mental condition does not permit his attendance and the child cannot be instructed under the special education provisions of this title.

Excused for bodily or mental condition.

Excuse issued.

The excuse provided for in subsection (4), above, shall be issued by the district superintendent, or the county superintendent when there is no district superintendent employed by the district. Whenever an excuse is denied by the applicable official, an appeal of such decision may be made to the district court of the county within ten (10) days after the decision upon giving a bond in the amount set by the court to pay all costs of the appeal. The decision of the district court shall be final.

Appeal to district court.

Compulsory attendance.

Section 117. Section 75-6304. **Compulsory attendance and excuses.** Any parent, guardian or other person who is responsible for the care of any child who is seven (7) years of age or older prior to the first day of school in any school fiscal year but has not yet reached his sixteenth birthday, or of a child who has not completed the work of the eighth grade, shall cause the child to attend the school in which he is enrolled for the school term and each school day therein prescribed by the trustees of the district unless: (1) the child has been excused under one of the conditions specified in section 75-6303;

Exceptions.

Excused.

Illness.

(2) the child is absent because of illness, bereavement or other reason prescribed by the policies of the trustees; or

Suspension.

(3) the child has been suspended or expelled under the provisions of section 75-6311.

Employment of attendance officer.

Section 118. Section 75-6305. **Attendance officer.** In order to enforce the compulsory attendance provisions of this title, each district shall have at least one person serving as an attendance officer according to the follow-

ing requirements: (1) districts of the first and second class shall employ and appoint one or more attendance officers;

(2) districts of the third class may employ and appoint an attendance officer, or may appoint a constable or other peace officer as an attendance officer; or

(3) the county superintendent shall be the attendance officer in third-class districts that do not appoint an attendance officer.

Powers and duties of attendance officer.

Section 119. Section 75-6306. **Attendance officer powers and duties.** The attendance officer of my district shall: (1) be vested with police powers, the authority to serve warrants and the authority to enter places of employment of children in order to enforce the compulsory attendance provisions of this title;

(2) take into custody any child subject to compulsory attendance who is not excused under the provisions of this title and conduct him to the school in which he is or should be enrolled;

(3) do whatever else is required to investigate and enforce the compulsory attendance provisions of this title and the pupil attendance policies of the trustees;

(4) institute proceedings against any parent, guardian, or other person violating the compulsory attendance provisions of this title;

(5) keep a record of his transactions for the inspection and information of the trustees and make reports in the manner and to whomever the trustees designate; and

(6) perform any other duties prescribed by the trustees to preserve the morals and secure good conduct of the pupils of the district.

Notice of truancy.

Section 120. Section 75-6307. **Truancy.** Whenever the attendance officer discovers a child truant from school or a child subject to compulsory attendance who is not enrolled in a school providing the required instruction and has not been excused under the provisions of this title, he shall notify in writing the parent, guardian or other person responsible for the care of the child that the continued truancy or nonenrollment of his child shall

result in his prosecution under the provisions of this section. If the child is not enrolled and in attendance at a school or excused from school within two days after the receipt of the notice, the attendance officer shall file a complaint against such person in a court of competent jurisdiction. If convicted, such person shall be fined not less than five ($5) nor more than twenty dollars ($20). In the alternative, he may be required to give bond in the penal sum of one hundred dollars ($100), with sureties, conditioned upon his agreement to cause the enrollment of his child within two (2) days thereafter in a school providing the courses of instruction required by this title and to cause the child to attend that school for the remainder of the current school term. If a person refuses to pay a fine and costs or to give a bond as ordered by the court, he shall be imprisoned in the county jail for a term of not less than ten (10) days or more than thirty (30) days.

Complaint.

Penalties for conviction.

Bond.

Imprisonment.

Child not able to attend.

Report to welfare authorities.

Child may be committed.

Section 121. Section 75-6308. **Incapacitated and indigent child attendance.** In lieu of the provisions of section 75-6307 and when an attendance officer is satisfied that a pupil or a child subject to compulsory attendance is not able to attend school because he does not have the physical capacity or he is absolutely required to work at home or elsewhere in order to support himself or his family ,the attendance officer shall report the case to the authorities charged with the relief of the poor. It shall be the duty of such welfare authorities to offer such relief as will enable the child to attend school. If the parent, guardian, or other person who is responsible for the care of the child denies or neglects the assistance offered to enable the child to attend school, the child shall be committed to a state institution, at the discretion of the court.

Compulsory attendance—Indian children.

Treaty.

Section 122. Section 75-6309. **Tribal agreement with district for Indian child compulsory attendance and other agreements.** It shall be the duty of the trustees of any district where an Indian child resides to require the child to attend school in the same manner as any other child residing in the district, unless it is prohibited by the laws or treaties affecting the Indian tribe of which such child is a member or the Indian reservation on which such child resides. When such a prohibition exists, the trustees of any district shall have the authority to

accept from the tribal council or other governing body of the Indian tribe or the Indian reservation authorization to enforce the compulsory attendance provisions of this title and compel the school attendance of the Indian children belonging to the tribe or residing on the reservation.

Enforcement.

Trustees authority to contract.

The trustees of any district shall have the authority to enter into an agreement with the tribal council or other governing body of an Indian tribe or Indian reservation to perform any other functions prescribed by this title except as limited by the laws of the United States and its treaties with such Indian tribe.

Duties of pupils.

Section 123. Section 75-6310. **Duties and sanctions.** Any pupil shall: (1) comply with the policies of the trustees and the rules and regulations of the school which he attends;

(2) pursue the required course of instruction;

(3) submit to the authority of the teachers, principal and district superintendent of the district; and

(4) be subject to the control and authority of the teachers, principal and district superintendent while he is in school or on school premises, on his way to and from school, or during his intermission or recess.

Penalties for unruly behavior.

Any pupil who continually and willfully disobeys the provisions of this section, shows open defiance of the authority vested in school personnel by this section, defaces or damages any school building, school grounds, furniture, equipment, book belonging to the district or harms or threatens to harm another person or his property shall be liable for punishment, suspension or expulsion under the provisions of this title. When a pupil defaces or damages school property, as defined above, his parent or guardian shall be liable for the cost of repair or replacement upon the complaint of the teacher, principal, superintendent or any trustee and the proof of such damage.

Parents liable for damages.

Other sanctions.

In addition to the sanctions prescribed in this section, the trustees of a high school district may deny a high school pupil the honor of participating in the graduation exercise or exclude a high school pupil from participating in school activities. Such action shall not be taken

until the incident or infraction causing such consideration has been investigated and the trustees have determined that the high school pupil was involved in such incident or infraction.

Suspension.

Trustees shall adopt policy.

Expulsion.

Section 124. Section 75-6311. **Suspension and expulsion.** As provided in sections 75-6109 and 75-6113, any pupil may be suspended by a teacher, superintendent or principal. The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent or principal in suspending a pupil and to define the circumstances and procedures by which the trustees may expel a pupil. Expulsion shall be a disciplinary action available only to the trustees.

Secret organizations prohibited.

Penalties.

Section 125. Section 75-6312. **Secret organization prohibited.** It shall be unlawful for any pupil to participate in or be a member of any secret fraternity or other secret organization that is in any degree a school organization. It also shall be unlawful for any pupil or other person to solicit any pupil to join any such prohibited secret fraternity or other secret organization. Any person violating the provisions of this section shall be guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than five dollars ($5) or more than twenty-five dollars ($25) for each violation.

Child may enroll outside elementary district of residence.

Application.

Tuition agreement form—approval.

Section 126. Section 75-6313. **Elementary tuition with mandatory approval.** Any child may be enrolled in and attend an elementary school outside of the elementary district in which he resides when such elementary school is located: (1) in any other district of the county of his residence, (2) in a county adjoining his county of residence, or (3) in a district of another state that is adjacent to the county of his residence. When a parent or guardian of a child wishes to have his child attend a school under the provisions of this section, he shall apply to the county superintendent of the county of his residence before the first day of July of the school fiscal year for which he seeks approval except in those cases when substantial changes in circumstances occurred subsequently to justify later application. Such application shall be made on a tuition agreement form supplied by the county superintendent and shall be approved by (1) the trustees of the elementary district in which the child resides, (2) the trustees of the district where the child

wishes to attend school, and (3) the county superintendent of the child's residence before permission to enroll in and attend a school outside of the district under the provisions of this section shall be granted.

Mandatory approval of tuition applications.

In considering the approval of a tuition application, the tuition approval agents prescribed in this section shall approve such application for a resident child when: (1) the child resides less than three (3) miles from the school which he wishes to attend and more than three (3) miles from any school of his resident elementary district;

3 miles.

(2) the child resides more than three (3) miles from any school of his resident elementary district and such district does not provide transportation under the provisions of this title;

3 miles.

(3) the child resides more than three (3) miles from any school of his resident elementary district and the resident district does not provide transportation under the provisions of this title, and school bus transportation is furnished by the district operating the school which he wishes to attend;

Other child.

(4) the child is a member of a family who must send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located provided such child resides more than three (3) miles from an elementary school of the resident district or the parent must move to the elementary district where the high school is located in order to enroll the other child in high school; or

Dependent and neglected child.

(5) the child has been declared by a district court a dependent and neglected child, as defined in section 10-501, R.C.M., 1947, or a juvenile delinquent child, as defined in section 10-602, R.C.M., 1947, and such child has been ordered to be placed in a duly licensed child care institution which is also approved by the state department of public welfare, and as a result of the order the child is required to attend elementary school outside of the district of his residence. For purposes of this subsection the prescribed geographic relationship of the receiving district to the district of residence shall not apply.

Disapproval authorized.

The trustees of the district where the school to be attended is located shall have the authority to disapprove a tuition agreement that satisfies any of the mandatory approval conditions specified in subsections (1), (2), (3), (4) or (5) above when they shall find that due to insufficient room and overcrowding the accreditation of the school would be adversely affected by the acceptance of the child. In the event of disapproval, the trustees shall so notify the parent in writing within fifteen (15) days of the first receipt of the application.

Notice.

Discretionary approval.

Section 127. Section 75-6314. **Elementary tuition with discretionary approval.** In considering the approval of a tuition application that is not required to be approved under the provisions of section 75-6313, the tuition approval agents prescribed in section 75-6313 may approve such application when such approval agents, individually, determine that the tuition agreement should be approved because of: (1) the distance and road conditions between the child's residence and any school of his resident district;

(2) the trading center of the child's parents;

(3) an opportunity to live with his relatives;

(4) dormitory facilities in the district to be attended;

(5) the living conditions of the child's family;

(6) the availability of transportation; or

(7) the type of educational program available in the school to be attended.

Section 128. Section 75-6315. **Distances, notification and appeal for elementary tuition purposes.** In considering any approval of an application submitted under the provisions of section 75-6313 or section 75-6314, the approval agents shall determine mileage distances on the basis of the shortest practical route between the child's residence and the school building, and they shall determine the child's residence on the basis of the provisions of section 83-303, R.C.M., 1947.

Determination of mileage distances.

Notice.

The county superintendent shall notify the parent or guardian and the trustees of the districts involved in the tuition application, of the tuition agreement approval or disapproval. If a tuition agreement is disapproved by

Appeal.

any approval agent, the parent may appeal such disapproval to the county superintendent and, subsequently, to the superintendent of public instruction under the provisions for the appeal of controversies in this title. The

Effect of approval.

approval of any tuition agreement by the approval agents or upon appeal shall authorize the child named in such agreement to enroll in and attend the school named in such agreement for the ensuing school fiscal year.

Rate of tuition.

The rate of tuition and the budgeting and payment procedure prescribed in section 75-7201 shall be applicable to any tuition application approved under the provisions of this section.

Section 129. Section 75-6316. **High school tuition.** Any

Child may enroll outside high school district of residence.

child may be enrolled in and attend a high school outside of the county in which he resides when such high school is located in any county of the state of Montana or in a county of another state that is adjacent to the state of Montana. When a parent or guardian of a child wishes to have his child attend a school under the pro-

Application.

visions of this section, he shall apply to the county superintendent of the county of his residence before the first day of July of the school fiscal year for which he seeks approval except in those cases when substantial changes in circumstances occurred subsequently to justify later

Tuition agreement form.

application. Such application shall be made on a tuition agreement form supplied by the county superintendent and shall be approved by the trustees of the district where the child wishes to attend school and the county superintendent of the child's county of residence before permission to enroll in and attend a school outside of the county under the provisions of this section shall be granted.

Approval.

The county superintendent shall approve a tuition application when a child lives closer to a high school of another county than any high school located within his resident county or, when due to road or geographic conditions, it is impractical to attend a high school in his resident county. In approving a tuition agreement under this provision, the county superintendent may require the child to attend the high school closest to his residence. The county superintendent may approve any other tuition application that satisfies the geographic requirements of this section.

Trustees approval.

The trustees of the district where the child wishes to attend school shall approve or disapprove any tuition application submitted to them under the provisions of this section within fifteen (15) days after the receipt of the application.

Notice.

The county superintendent shall notify the parent or guardian, and the trustees of the district where the child wishes to attend school of the tuition agreement approval or disapproval. If a tuition agreement is disapproved by the county superintendent, the parent may appeal such

Appeal.

disapproval to the county superintendent for his reconsideration and, subsequently, to the superintendent of public instruction under the provision for the appeal of controversies in this title. The approval of any tuition

Effect of approval.

agreement by the approval agents or upon appeal shall authorize the child named in such agreement to enroll in and attend the school named in such agreement for the ensuing school fiscal year.

Section 130. Section 75-6317. **Reporting, budgeting and payment for high school tuition.** At the close of the school term of each school fiscal year and before the fifteenth day of July, the trustees of each high school

Annual tuition report.

district shall report to the county superintendent of the county in which the district is located: (1) the names, addresses, and resident counties of the pupils attending the schools of the district under an approved tuition agreement;

(2) the number of days of school attended by each pupil; and

(3) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, shall have the authority to waive.

When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the county superintendent of each county in which the reported pupils reside.

When the county superintendent of any county receives a tuition report or reports for high school pupils residing in his county and attending an out-of-county high school under approved tuition agreements, he shall determine

Determination of tuition due.

the total amount of tuition due such out-of-county high schools on the basis of the following per pupil schedule:

$300.00 per pupil. (1) three hundred dollars ($300) per pupil when the ANB of the attended school is one hundred (100) or less;

$275.00 per pupil. (2) two hundred seventy-five dollars ($275) per pupil when the ANB of the attended school is more than one hundred (100) but less than three hundred one (301); or

$250.00 per pupil. (3) two hundred fifty dollars ($250) per pupil when the ANB of the attended school is three hundred one (301) or more.

The total amount of the high school tuition determined under the rate schedule, and in consideration of any tuition waivers, shall be financed by the county basic special tax for high schools as provided in section 75-6914.

Source of payment.

In December, the county superintendent shall cause the payment by county warrant of the high school tuition obligations established under this section out of the first monies realized from the county basic special tax for high schools. The payment shall be made to the county treasurer of the county where each high school entitled to tuition is located. The county treasurer shall credit such tuition receipts to the general fund of the applicable high school district, and the tuition receipts shall be used in accordance with the provisions of section 75-6926.

County warrants.

Credit to general fund.

Section 131. Section 75-6318. **Reciprocal tuition agreement with adjoining state.** The superintendent of public instruction shall have the authority to execute a reciprocal tuition agreement with the superintendent of public instruction or a department of education of any state adjoining Montana to allow the eligible children of Montana to attend school in the adjoining state and to allow children of the adjoining state to attend school in Montana. In negotiating a reciprocal tuition agreement, the tuition rates prescribed by section 75-7201 and section 75-6317 shall be waived and the reciprocal tuition rate may be negotiated as a flat amount or an actual-cost-per-pupil amount. The superintendent of public instruction shall supply a copy of any reciprocal tuition agreement that is executed to the county superintendent of each county that may be affected by such agreement.

Authority to execute reciprocal tuition agreements.

Rates negotiated.

Any tuition agreement approved under the provisions of section 75-6313, 75-6314 or 75-6316 for a child's attendance at a school outside of the state shall be completed in accordance with the applicable reciprocal tuition agreement.

Section 132. Section 75-6319. **High school tuition for public institution at Twin Bridges.** Whenever high school pupils are inmates of the Montana children's center at Twin Bridges and attend high school in Twin Bridges, the superintendent of public instruction shall pay four hundred dollars ($400) per pupil for each pupil who has attended forty (40) or more days of school in such district. The annual payment shall be made from the state equalization aid account to the county treasurer for the credit of the Twin Bridges high school general fund immediately after the end of the school fiscal year of attendance and after the verification of the claim submitted by Twin Bridges high school district. An approved tuition agreement shall not be required under this section.

High school tuition—Twin Birdges.

$400.00 per pupil.

Annual payment.

Section 133. Section 75-6320. **Individual tuition for elementary pupil.** No provision of this title shall be construed to deny a parent the right to send his child, at his own expense, to any elementary school of a district other than his resident district when the parent has agreed to pay the tuition acceptable to the trustees of the district where the school is located. The trustees of the district where the school is located may allow the attendance of a child under the provisions of this section at their discretion. When the attendance is approved, the trustees shall charge tuition at the same rate prescribed by section 75-7201 reduced by any amount which is uniformly waived by the trustees for all tuition payments. However, under this section, tuition shall be waived when the parent of the child paid two hundred dollars ($200) or more in district and county property taxes during the immediately preceding school fiscal year for the benefit and support of the district in which the child will attend school.

Parent may pay tuition.

Waiver.

$200.00 or more paid in property taxes.

Section 134. Section 75-6321. **Individual tuition for high school pupil.** Any child eligible to attend high school may attend school in any high school district of his county of residence without payment of tuition.

Child may attend any high school in district of residence.

No provision of this title shall be construed to deny a parent the right to send his child, at his own expense, to any high school outside of his county of residence when the parent agreed to pay the tuition acceptable to the trustees of the high school district operating such high school. When the attendance is approved, the parent shall pay tuition at the rate fixed by the trustees.

Parent may pay tuition.

Fees for breakage and excessive supplies.

Section 135. Section 75-6322. **Fees.** The trustees of any district may require pupils in the commercial, industrial arts, music, domestic science, scientific or agricultural courses to pay reasonable fees to cover the actual cost of breakage and of excessive supplies used.

Extracurricular funds.

Section 136. Section 75-6323. **Extracurricular fund for pupil functions.** The government of the pupils of the school within a district or the administration of a school on behalf of the pupils may establish an extracurricular fund for the purposes of the receipts and expenditures of money collected for pupil extracurricular functions with the approval of the trustees of the district. All extracurricular moneys of any pupil organization of the school

Deposit.

shall be deposited and expended by check from a bank account maintained for the extracurricular fund.

Accounting.

An accounting system for the extracurricular fund recommended by the state examiner shall be implemented by the trustees. Such accounting system shall provide for: (1) the internal control of the cash receipts and expenditures of the money; and

(2) a general account that can be reconciled with the bank account for the extracurricular fund and reconciled with the detailed accounts within the extracurricular fund maintained for each student function.

Annual audit.

The trustees of the district shall cause an annual audit of the extracurricular fund by retaining a qualified accountant or the state examiner to perform such audit. Whichever person the trustees wish to retain, they shall notify the state examiner of their decision by the first day of January of the school fiscal year to be audited. If

Fee—$60.00 per day.

the state examiner performs the audit, a fee of sixty dollars ($60) per day per man shall be paid from the extracurricular fund or district monies to the state examiner for deposit in the state treasury as provided by law.

Filing.

The auditor shall file a certified copy of the audit report with the county superintendent. The county superintendent shall publish notice in a newspaper of the district or county of the filing and the fact that it is open to public inspection.

Section 137. Section 75-6401. **Definition.** As used in this title, unless the context clearly indicates otherwise:

"School election" defined.

"school election" means any election conducted by a district or community college district for the purpose of electing trustees, for authorizing taxation, for authorizing the issuance of bonds by an elementary district or a high school district, or for accepting or rejecting any proposition that may be presented to the electorate for decision in accordance with the provisions of this title.

Provisions governing.

Section 138. Section 75-6402. **Precedence of school election provisions.** Unless specifically identified in any section of the election laws prescribed in title 23, R.C.M., 1947, school elections shall be governed by the provisions of this title. Should there be a conflict between the requirements of title 23 and the provisions of this title regulating school elections, the provisions of this title shall govern.

Ballot mandatory.

Section 139. Section 75-6403. **Election by ballot.** All school elections shall be by ballot.

First Saturday of April.

Section 140. Section 75-6404. **Regular school election day and special school elections.** The first Saturday of April of each year shall be the regular school election day. Unless otherwise provided by law, special school

Special elections.

elections may be conducted at such times as determined by the trustees.

Poll hours.

Section 141. Section 75-6405. **Poll hours.** The polls for any school election in any district shall open not later than 12 noon. The trustees may order the polls to

12 noon.

open earlier, but no earlier than 8 a.m. However, the

8 a.m.

polls shall open at 8 a.m. if the school election is held on the same day, at the same polling places and with the same judges and clerks as a general, primary, county or city election.

Once opened, the polls shall be kept open continuously

8 a.m.

until 8 p.m. except that whenever all the registered electors at any poll have voted, the poll shall be closed immediately.

Section 142. Section 75-6406. **Conditions under which school election called.** At least thirty-five (35) days be-

35 days.

fore any school election, the trustees of any district shall

Resolution.

call such school election by resolution, stating the date

Conduct.

and purpose of such election, and conduct it in accordance with the procedures required by law, when: (1)

an election must be held on the regular school election day;

(2) in their discretion, such trustees order an election for a purpose authorized by law;

(3) the county superintendent orders an election in accordance with the law authorizing such an order;

(4) the board of education orders an election in accordance with the law authorizing such an order;

(5) the county commissioners order an election in accordance with the law authorizing such an order;

(6) the board of trustees of a community college district orders an election in accordance with the law authorizing such an order, in which case the community college district shall bear its share of the cost of such election; or

(7) a school election is required by law under any other circumstances.

County registrar. The resolution calling any school election shall be transmitted immediately to the county registrar in order to enable him to close the registration and prepare the lists of registered electors as required by school election laws.

Section 143. Section 75-6407. **Time limitation for conduct of election.** Whenever the trustees of any district receive an order to call an election, they shall conduct such election any time within sixty (60) days after the date of the order unless the law or order otherwise regulates the day or timing of such election.

Election within 60 days.

Section 144. Section 75-6408. **Resolution for poll hours, polling places, judges, and ballot format.** At the trustee meeting when a school election is called, the trustees also shall: (1) Establish the time at which the polls are to open, if in their discretion they determine that the polls shall be open before 12 noon.

Poll opening.

Polling places.

(2) Establish the polling places for such election. There shall be one polling place in each district unless the trustees establish additional polling places. If more than one polling place is established, the trustees shall define the boundaries for each polling place and such trustee defined polling place boundaries shall be coterminous with county precinct boundaries existing within a district. If the site of a polling place is changed from the polling place site used for the last preceding school election, special reference to the changed site of the polling place shall be included in the notice for such election.

Boundaries.

Change in polling place.

Notice.

(3) Appoint from among the qualified electors of the district, three judges for each polling place for such election and notify each judge of such appointment not less than ten days before the election.

Appointment of three judges.

(4) Establish the format of the ballot for the election unless the ballot format is specified by the law which authorizes the election.

Format of ballot.

Section 145. Section 75-6409. **Election notice.** When the trustees of any district call a school election, they shall give notice of the election not less than twenty (20) days nor more than thirty (30) days before the day of the election by posting notices in three public places in the district; provided that in incorporated cities and towns at least one notice shall be posted at a public place in each ward. Whenever, in the judgment of the trustees, the best interest of the district will be served by the supplemental publication of the school election notice in a newspaper or by a radio or television broadcast, the trustees may cause such notification to be made.

Notice of election.

Posting.

Publication.

Requirements of notice.

The notice of a school election, unless otherwise required by law, shall specify: (1) the date and polling places of the election;

(2) the hours the polling places will be open;

(3) each proposition to be considered by the electorate; and

(4) if there are trustees to be elected, the number of positions subject to election and the length of term of each position.

If more than one proposition is to be considered at the same school election, each proposition shall be set apart and separately identified in the same notice, or published in separate notices.

Section 146. Section 75-6410. **Qualifications of elector.** Except as provided in section 75-6411, every person is entitled to vote at school elections if he has the following

Elector qualifications.

Registered voter. qualifications: (1) He has registered to vote with the county registrar in the manner provided by the general state election laws except in regard to the closure of elector registration as provided in section 75-6413;

Age. (2) He is twenty-one (21) years of age or older;

Residence. (3) He has resided in the state one (1) year and in the district thirty (30) days immediately preceding the election at which he offers to vote; and

Citizen. (4) He is a citizen of the United States.

Felon cannot vote. No person convicted of a felony has the right to vote unless he has been pardoned.

Insane person cannot vote. No person adjudicated insane has the right to vote unless he has been restored to capacity as provided by law.

Section 147. Section 75-6411. **Additional elector qualifications for taxpayer status.** If an election is held to authorize property taxation or to authorize indebting a district by the issuance of bonds, only that person is entitled to vote who: (1) possesses the qualifications and none of the disabilities established in section 75-6410, and

Taxpayer status.

Assessment roll. (2) is a taxpayer on property within the district and whose name appears on the last completed assessment roll of the county for state, county, and school taxes.

However, no such person otherwise qualified under this section shall be denied the right to vote by reason of the fact that the polling place for a general election for the precinct wherein he resides and is entitled to vote, lies within another district.

Section 148. Section 75-6412. **Elector challenges.** Any person offering to vote in a school election may be challenged by any elector of the district on any of the grounds for challenge established in section 23-3611, R.C.M., 1947. Such challenge shall be determined in the same manner, using the same oath as provided in chapter 36 of title 23, R.C.M., 1947.

Elector may be challenged.

Any person offering to vote in a school election to authorize property taxation or to authorize indebting a district by the issuance of bonds may be challenged by any elector of the district as to his taxpayer status and the judges shall administer the following oath to the

Challenge of taxpayer status.

challenged person: "You do swear (or affirm) that you are a taxpayer on the last assessment roll for this school district." Such oath or affirmation shall be reduced to writing and signed by the challenged person and sworn to before one of the election judges. If the voter takes the oath or affirmation, his vote shall be received; otherwise, it will be rejected. Such oath or affirmation shall be recorded in conformity with the provisions of section 23-3617, R.C.M., 1947, and the signed oath or affirmation shall be returned with the ballots to the trustees.

Oath.

Rejection.

Any person who shall offer to vote and is denied the privilege to vote in a school election to authorize property taxation or to authorize indebting a district by the issuance of bonds because he is not identified as a "taxpayer" on the polling place list of registered electors may challenge the validity of the taxpayer designation of such list, and the judges shall administer the following oath to such person: "You do swear (affirm) that you are a taxpayer on the last assessment roll for this school district." Such oath or affirmation shall be reduced to writing and signed by the challenged person and sworn to before one of the election judges. If the voter takes the oath or affirmation, his vote shall be received; otherwise, it will be rejected. Such oath or affirmation shall be recorded in conformity with the provisions of section 23-3617, R.C.M., 1947, and the signed oath or affirmation shall be returned with the ballots to the trustees.

Person denied vote may challenge validity of list.

Oath.

Rejection.

Any person who shall have been challenged under any of the provisions of this section or has challenged the taxpayer designation of the list of registered electors and who shall swear or affirm falsely before any school election judge shall be guilty of perjury and shall be punished accordingly.

Penalties for perjury.

Section 149. Section 75-6413. **Closure of registration.** Registration for school elections shall close for thirty (30) days before any school election, but it shall not be necessary to publish any notice of such closing of registration.

Registration closed 30 days before school election.

Section 150. Section 75-6414. **Lists of registered electors.** After closing registration the county registrar shall prepare a list of registered electors for each polling place established by the trustees. The list for each polling place shall be prepared in the format of a precinct reg-

List of electors for each polling place.

"Taxpayer."

ister book. The registrar shall stamp "taxpayer" beside the name of an elector who is a taxpayer on property within the district and whose name appears on the last completed assessment roll of the county for state, county, and school taxes to show that he is qualified to vote for a proposition in a school election requiring taxpayer status of the electors.

Delivery of lists.

Section 151. Section 75-6415. **Delivery of and charge for lists of registered electors.** Before the day of the election, the registrar shall deliver a certified copy of the lists of registered electors for each polling place to the district which shall deliver them to the election judges prior to the opening of the polls. A charge of three cents ($.03) per name shall be paid by the district to the county for preparing the lists of registered electors.

Charge 3 cents per name.

Absentee ballots.

Section 152. Section 75-6416. **Absentee voting.** A qualified registered elector who will be absent from the district or physically incapacitated and unable to go to the polls on the day of a school election may vote by casting an absentee ballot. The superintendent of public instruction shall prepare the form of application for absentee ballots and other forms necessary for absentee voting at school elections and may make necessary rules to carry out the purpose of absentee voting as established by the provisions of the general state election laws of Montana.

Forms.

Rules.

Voting machines may be used in school elections.

Section 153. Section 75-6417. **Voting machines and electronic voting systems.** Whenever voting machines or electronic voting systems are available to a district, such voting devices may be used for a school election. Any district that uses a voting machine or an electronic voting system shall do so in accordance with the provisions of chapter 38 or chapter 39 of title 23 of the Revised Codes of Montana. In construing the provisions of those chapters, the "county commissioners" and the "registrar" shall, for the purposes of this section, be considered to refer to trustees and "county" shall be considered to refer to district.

Definitions.

Duties of trustees.

Oaths.

Section 154. Section 75-6418. **General supervision and supplies.** The trustees are the general supervisors of school elections. They are authorized to and shall administer oaths to election judges. Before the opening

of the polls, the trustees shall cause the judges and each polling place to be supplied with: (1) a sufficient number of ballots for each proposition election or trustee election to be conducted;

Supplies.

Ballots.

(2) at least six (6) cards instructing electors in the process of how to vote;

Instruction cards.

(3) a list of electors prepared in the format of a precinct register book;

List of electors.

(4) a pollbook for the poll list;

Pollbook.

(5) tally sheets;

Tally sheets.

(6) a sufficient number of booths, each provided with a door or a curtain to screen the voter from view and furnished adequately to enable the voter to prepare his ballot;

Booths.

(7) ballot boxes or canvas pouches with a lock and key; and

Boxes.

(8) any other supplies necessary for the proper conduct of the election.

Other supplies.

Section 155. Section 75-6419. **Clerk of election judges and appointment for absent judge.** Before conducting the school election and on the day of the election, the judges shall designate one of their number to act as clerk of such election. If any of the judges appointed by the trustees are not present at the time for the opening of the poll, the electors present at that time may appoint a qualified elector for such election to act in the place of the absent judge.

Clerk of election.

Section 156. Section 75-6420. **Election expenses.** All expenses necessarily incurred in the matter of holding school elections shall be paid out of the school funds of the district, except when such expenses are by law to be shared by a community college district for which the district is conducting an election. The trustees may pay the election judges of a school election at a rate not to exceed the prevailing federal minimum wage per hour of service in connection with such election.

Election expenses.

Maximum rate of pay.

Section 157. Section 75-6421. **Conduct of election.** Election judges shall conduct school elections in a manner that insures a fair and unbiased determination of the matters put before the electorate, and see that each elect-

Duties of election judges—conduct of school elections.

or has an adequate opportunity to cast his vote. To that end election judges shall: (1) post at least one (1) instruction card in each voting booth and not less than three (3) such cards elsewhere about the polling place;

(2) proclaim the opening and closing of the polls;

(3) insure that no more than one (1) person occupies a voting booth at one (1) time and that no person occupies a booth longer than is reasonably necessary;

(4) enforce the rules against certain prohibited conduct as provided in section 23-3605, R.C.M., 1947;

(5) aid a disabled elector in marking his ballot in the manner provided by section 23-3609, R.C.M., 1947; and

(6) follow the remaining provisions of chapter 36 of title 23, R.C.M., 1947, regulating the conduct of elections, and chapter 14 of title 94, R.C.M., 1947, except that no deviation from those regulations shall vitiate the election so long as it can reasonably be concluded that neither the outcome of the election nor any individual elector was prejudiced by such deviation.

Section 158. Section 75-6422. **Delivery of ballot, pollbook, tally sheet, and certifying election result.** The judges shall conduct school elections in the following manner: (1) The election judges shall deliver the ballots to the elector offering to vote and shall cause the recording of such elector's signature on the registered elector listing for the polling place.

Ballots.

Pollbook.

(2) A pollbook shall be kept by the election clerk. The clerk shall record the name of each elector in the pollbook at the time his ballot is deposited in the ballot box. One pollbook may be kept for two or more school elections conducted simultaneously at the same poll.

Counting of ballots —equalizing.

(3) Immediately after closing the polls, the judges shall count ballots. If there are more ballots than the recorded number of electors in the pollbook, the judges shall draw by lot from the ballots, without seeing them, a sufficient number of ballots to equalize the number of ballots and the number of electors.

Count and tally.

(4) After the number of electors and ballots have been equalized, the judges shall proceed to count the ballots. The clerk shall enter on the tally sheet for the trustee

election the name of every person voted for trustee, grouping them by length of term of the trustee position for which they were a candidate. The votes cast for a person shall be tallied opposite his name. When a proposition is presented at a school election, the clerk shall enter "for" and "against" on the tally sheet and record each vote opposite the appropriate entry on the tally sheet. A separate tally sheet shall be kept for each election of trustees and for each proposition.

Signing and certification.

(5) After the votes have been entered on a tally sheet, the judges and clerk shall sign it and certify upon the tally sheet the following information:

Number of votes.

(a) the number of votes cast for each person who received votes for trustee and the length of term for which he received these votes; or

Totals "for" and "against."

(b) the total number of votes cast "for" and "against" a proposition.

Verification by judges.

The certified totals shall be verified by the judges as being correct to the best of their knowledge, before an officer authorized to administer oaths. No informality in such certification shall vitiate the election, if the number of votes for each person or for or against each proposition can reasonably be ascertained from each tally list.

Return to trustees.

(6) The school election judges shall return the pollbook, ballots, certified tally sheets, and the registered elector listing to the trustees of the district as soon as possible.

Section 159. Section 75-6423. **Trustees canvass of votes and issuance of election certificate.** At the first regular or special meeting of the trustees conducted after the receipt of the certified tally sheets of any school election from all the polls of the district, the trustees shall canvass the vote. Such canvass shall include a redetermination of the total votes cast for each person for trustee or the total votes cast "for" and "against" each proposition, as shown on the tally sheet or sheets.

Canvass of vote.

Certificate of election.

After the redetermination of the total votes cast, the trustees shall issue a certificate of election. In the case of a trustee election, the certificate shall be issued to

the elected trustee and the county superintendent designating the term of the trustee position to which he has been elected. In the case of an election on a proposition, the trustees shall issue a certificate specifying the outcome of the election. The certificate shall be issued within fifteen (15) days after the election to that official or public body which ordered the election. When the election has been ordered by resolution of the trustees, the canvassed results shall be published immediately in a newspaper that will give notice to the largest number of people of the district.

Issued within 15 days.

Publication.

Section 160. Section 75-6501. **Definition of elementary and high school districts.** As used in this title, except as defined in section 75-7102 for bonding purposes or unless the context clearly indicates otherwise, the term "district" means the territory, regardless of county boundaries, organized under the provisions of this title to provide public educational services under the jurisdiction of the trustees prescribed by this title. High school districts may encompass all or parts of the territory of one (1) or more elementary districts.

"District" defined.

An elementary district is a district organized for the purpose of providing public education for all grades up to and including grade eight (8), and for preschool programs and kindergartens. A high school district is a district organized for the purpose of providing those public educational services authorized by this title for all grades beyond grade eight (8), including post-secondary programs, except those programs administered by community college districts or the Montana university system.

Elementary district.

High school district.

An elementary district shall be known as "District No. ....., ... County" and a high school district, except a high school district where a county high school is operated, shall be known as "High School District No. ....., ... County." Any district shall be a body corporate and, as such body corporate, may sue and be sued, contract and be contracted with, and acquire, hold, use and dispose of real or personal property for school purposes, within the limitations prescribed by law. Unless the context clearly indicates otherwise, the trustees of elementary districts and high school districts shall have the same types of powers, duties, and responsibilities authorized and imposed by the laws of Montana.

Designation.

Body corporate.

Trustees—types of powers and duties.

Unless the context clearly indicates otherwise, an elementary district operating a high school in a county that has not been divided into high school districts shall be considered a high school district under this title and the trustees of the elementary district shall be the trustees of the high school district. Such an elementary district operating a high school shall not have the bonding authority of a high school district. However, the elementary district may exercise its bonding authority, in the manner provided by law, for high school purposes.

Elementary district operating high school district.

Bonding authority.

As used in this title, unless the context clearly indicates otherwise, a county high school shall be considered a high school district subject to the limitations prescribed by law for a county high school as a result of its being a part of the county government. The boundaries of the high school district for a county high school shall be: (1) the high school district boundaries established by the county high school boundary commission; or

County high school deemed high school district.

Boundaries defined.

(2) if no such boundaries have been established, the county boundaries, except for any territory located in a joint high school district.

Any county high school recognized as a high school district under the provisions of subsection (2) above shall not have a bonding authority. Instead, the county shall exercise its bonding authority in the manner provided in section 75-7133.

Bonding authority.

Section 161. Section 75-6502. **Confirmation of existing district boundaries.** All districts established under the laws of the State of Montana or the territory of Montana and defined by the boundaries described in the records of each county on the effective date of this act shall be recognized as the districts of the state on such date.

Existing boundaries recognized.

Section 162. Section 75-6503. **District classification.** Each elementary district shall have a classification of: (1) first class, if it has a population of eight thousand (8,000); or

Classifications.

First class.

(2) second class, if it has a population of one thousand (1,000) or more but less than eight thousand (8,000); or

Second class.

(3) third class, if it has a population of less than one thousand (1,000).

Third class.

Computation of population.

The population of an elementary district shall be determined by the county superintendent on the basis of the best available population information for the district or; if the county superintendent deems it more equitable, he shall multiply by three (3) the approved number of school census children from the last completed census report of the district who are six (6) years of age or older but who have not reached their twenty-first birthday.

Change in population—reclassification.

The county superintendent shall establish the classification of each elementary district in the county on the basis of the population determined for the district and the district classification criteria prescribed in this section. Whenever the population of an elementary district increases or decreases requiring an adjustment of the district classification according to the criteria prescribed in this section, the county superintendent shall declare such district's classification to be changed in accordance with the determined population, except that the classification of an elementary district shall not be changed more than once every five (5) years.

5 years.

Increased number of trustees.

Whenever the county superintendent changes an elementary district's classification with the result that a larger number of trustees is required on the elementary board of trustees, the increased number of trustee positions shall be filled in the manner provided for filling trustee vacancies. Such positions shall be subject to election on the next regular school election day. If the

Reduced number of trustees.

county superintendent changes an elementary district's classification with the result that a lesser number of trustees is required, the next elementary trustee positions that become vacant under any circumstances shall not be filled until the number of elementary trustee positions has been reduced to the number required by law.

Adjustment in number of trustee positions.

The classification of a high school district shall be the same as the classification of the elementary district where the high school building is located. Whenever the classification of such elementary district is changed, the classification of a high school district shall be changed accordingly, and the county superintendent shall adjust the number of additional high school district trustee positions in accordance with the method prescribed in section 75-5905 for the determination of the number of additional trustee positions required for a high school district. An

Appointment.

increased number of trustee positions shall be filled by

the appointment of the county superintendent and such positions shall be subject to election at the next regular trustee election. When the number of positions is decreased, the next additional high school trustee positions that become vacant under any circumstances shall not be filled until the number of trustee positions has been reduced to the number required by law.

Decrease.

Section 163. Section 75-6504. **Permanent record of district boundaries.** The board of county commissioners shall maintain a permanent record which plainly and definitely describes the boundaries of each district within the county. The county superintendent shall keep a transcript of the record in his office and shall be responsible for keeping the record current.

Permanent boundary records.

If the county superintendent determines that the boundaries of any elementary district or high school district are in conflict or are incorrectly described, he shall change, harmonize, and describe them accurately, and he shall make a report of such boundary adjustments to the board of county commissioners. When the board of the county commissioners approves a district boundary report submitted by the county superintendent, such boundaries shall be the legal boundaries and description of the district within the county. Whenever district boundaries are clarified under this section, the county superintendent shall supply the trustees of the district with the legal descriptions of the boundaries of their district.

Boundary adjustments.

Approval.

Legal descriptions.

Section 164. Section 75-6505. **Time limitation for district boundary changes.** No elementary district shall be created nor shall any elementary district boundaries be changed between the first day of March and the second Monday of August of any calandar year except when: (1) the entire territory of a district is annexed or attached to another district;

No change between March 1 and second Monday in August.

Exceptions.

(2) the entire territory of the portion of a joint district located in one (1) county is annexed or attached to another district; or

(3) two (2) or more districts are consolidated in their entirety.

Section 165. Section 75-6506. **Elementary district con-**

Elementary districts—consolidation.

solidation. Any two (2) or more elementary districts in one (1) county may consolidate to organize an elementary district. The consolidation shall be conducted under the following procedure: (1) At the time the consolidation proposition is first considered, the districts involved shall jointly determine whether the consolidation shall be made with or without the mutual assumption of the bonded indebtedness of each district by all districts included in the consolidation proposition.

Joint determination.

Methods of proposal.

(2) A consolidation proposition may be introduced, individually, in each of the districts by either of the two following methods:

Resolution of trustees.

(a) the trustees may pass a resolution requesting the county superintendent to order an election to consider a consolidation proposition involving their district; or

20% of electors.

(b) not less than twenty per cent (20%) of the electors of an elementary district who are qualified to vote under the provisions of section 75-6410 may petition the county superintendent requesting an election to consider a consolidation proposition involving their resident district.

Within 10 days.

(3) When the county superintendent has received a resolution or a valid petition from each of the districts included in the consolidation proposition, he shall, within ten (10) days after the receipt of the last resolution or petition and as provided by section 75-6406, order the trustees of each elementary district included in the consolidation proposition to call a consolidation election.

Consolidation election.

District election.

(4) Each district, individually, shall call and conduct an election in the manner prescribed in this title for school elections. In addition:

Assumption of bonded indebtedness.

(a) if the districts to be consolidated are to mutually assume the bonded indebtedness of each district involved in the consolidation, the consolidation election also shall follow the procedures prescribed in section 75-6509; or

Non assumption of bonded indebtedness.

(b) if the districts to be consolidated are not to mutually assume the bonded indebtedness of each district involved in the consolidation, the consolidation election also shall follow the procedures prescribed in section 75-6510.

County superintendent determines approval.

(5) After the county superintendent has received the election certification under the provisions of section 75-6423 from the trustees of each district included in a consolidation proposition, he shall determine if the consolidation proposition has been approved in each district. If each district has approved the consolidation proposition, he shall, within ten (10) days after the receipt of the last election certificate, order the consolidation of such districts. If it be for consolidation with the mutual assumption of bonded indebtedness of each elementary district by all districts included in the consolidation order, such order shall specify that all the taxable real and personal property of the consolidated district shall assume the bonded indebtedness of each district. In addition, such order shall specify the number of the consolidated elementary district and shall contain the county superintendent's appointment of the trustees for the consolidated district who shall serve until a successor is elected at the next succeeding regular school election and qualified. The superintendent shall send a copy of such order to the board of county commissioners and to the trustees of each district incorporated in the consolidation order. If any district included in the consolidation proposition disapproves the consolidation proposition, the consolidation of all districts shall fail and the county superintendent shall notify each district of the disapproval of the consolidation proposition.

Within 10 days—order of approval.

Mandatory provisions of order.

Distribution.

District nonapproval.

Notice.

Section 166. Section 75-6507. **Conditions for elementary district annexation.** An elementary district may be annexed to another elementary district located in the same county when: (1) a third-class district where a high school is not located is annexed to a third-class district where a high school is located, a first-class district, or a second-class district.

Elementary district annexation—conditions.

(2) a third-class district where a high school is located is annexed to a first-class district or a second-class district; or

(3) a second-class district is annexed to a first-class district.

The annexation of elementary districts shall be conducted under the provisions of section 75-6508.

Conduct.

Section 167. Section 75-6508. **Elementary district an-**

Annexation procedure.

nexation. An elementary district may be annexed to another elementary district located in the same county in accordance with the following procedure: (1) At the time the annexation proposition is first considered, the districts involved shall jointly determine whether the annexation shall be made with or without the joint assumption of the bonded indebtedness of the annexing district by the district to be annexed and the annexing district.

Joint determination.

Methods of proposal.

(2) An annexation proposition may be introduced in the district to be annexed by either of the two following methods:

Trustees' resolution.

(a) the trustees may pass a resolution requesting the county superintendent to order an election to consider an annexation proposition for their district; or

20% of electors.

(b) not less than twenty per cent (20%) of the electors of the district who are qualified to vote under the provisions of section 75-6410 may petition the county superintendent requesting an election to consider an annexation proposition for their district.

Authority.

(3) Before ordering an election on the proposition the county superintendent shall first receive from the trustees of the annexing district a resolution giving him the authority to annex such district.

Within 10 days.

(4) When the county superintendent has received authorization from the annexing district, he shall, within ten (10) days after the receipt of the resolution or a valid petition from the district to be annexed and as provided by section 75-6406, order the trustees of the district to be annexed to call an annexation election.

Annexation election.

Conduct of election.

(5) The district shall call and conduct an election in the manner prescribed in this title for school elections. In addition:

Assumption of bonded indebtedness.

(a) if the district to be annexed is to jointly assume with the annexing district, the bonded indebtedness of the annexing district, the annexation election shall also follow the procedures prescribed in section 75-6509; or

Nonassumption of bonded indebtedness.

(b) if the district to be annexed is not to jointly assume with the annexing district, the bonded indebtedness of the annexing district, the annexation election shall also follow the procedures prescribed in section 75-6510.

(6) After the county superintendent has received the election certificate from the trustees of the district conducting the annexation election under the provisions of section 75-6423 and if the annexation proposition has been approved by such election, he shall order the annexation of the territory of the elementary district voting on such proposition to the elementary district that has authorized the annexation to its territory. Such order shall be issued within ten (10) days after the receipt of the election certificate and, if it be for annexation with the assumption of bonded indebtedness, shall specify that all the taxable real and personal property of the annexed territory shall jointly assume with the annexing district the existing bonded indebtedness of the annexing district. The county superintendent shall send a copy of the order to the board of county commissioners and to the trustees of the districts involved in the annexation order. If the annexation proposition is disapproved in the district to be annexed, it shall fail and the county superintnedent shall notify each district of the disapproval of the annexation proposition.

Approval. Order of annexation.

Within 10 days.

Distribution of order.

Notice of nonapproval.

Section 168. Section 75-6509. **Consolidation or annexation election with assumption of bonded indebtedness.** A consolidation election involving the mutual assumption of bonded indebtedness by the elementary districts to be consolidated, as prescribed in section 75-6506, or an annexation election involving the joint assumption of bonded indebtedness by the elementary district to be annexed, as prescribed in section 75-6508, shall comply with the following procedures in addition to those prescribed by this title for other school elections: (1) Ballots in two distinctly different colors shall be used, and separate ballot boxes shall be provided to segregate the ballots one color from another.

Election involving assumption of indebtedness.

Ballots—two colors.

(a) In a consolidation election both colored ballots shall read, after stating the consolidation proposition, "FOR consolidation with assumption of bonded indebtedness" and "AGAINST consolidation with assumption of bonded indebtedness."

Consolidation.

For and against.

(b) In an annexation election both colored ballots shall read, after stating the annexation proposition, "FOR annexation with assumption of bonded indebtedness" and "AGAINST annexation with assumption of bonded indebtedness."

Annexation.

For and against.

Division of ballots.

(2) Electors who are taxpayers and qualified to vote under the provisions of section 75-6411 shall vote with ballots of one of the colors, and non-taxpaying electors who are qualified to vote under the provisions of section 75-6410 shall vote with ballots of the other color.

Trustees' canvass.

(3) When the trustees in each elementary district conducting an election canvass the vote under the provisions of section 75-6423, they shall decide according to the following procedure, if the proposition has been approved:

Procedure.

Number of taxpaying electors.

(a) Determine if a sufficient number of the qualified taxpaying electors of the district have voted to validate the election and have voted to approve the election proposition in the same manner required for bond elections by section 75-7117,

Votes for and against.

(b) When the proposition is approved under subsection (3)(a), determine the number of votes "FOR" and "AGAINST" the proposition that have been cast on the separate ballots by the electors who were not qualified as taxpayers;

Tallies.

(c) Add the vote tallies "FOR" and "AGAINST" as determined in subsection (3)(b) to the corresponding tallies determined in subsection (3)(a).

Approval.

The proposition shall be approved in the district if the sums of the "FOR" and "AGAINST" votes of the two categories of electors show that a majority of the total votes cast approved the proposition.

Nonapproval.

If the proposition is disapproved under either the provisions of subsection (3)(a) or (3)(c), the proposition shall be disapproved in the district.

Consolidation or annexation election not involving assumption.

Section 169. Section 75-6510. **Consolidation or annexation election without assumption of bonded indebtedness.** A consolidation election without the assumption of bonded indebtedness by the elementary districts to be consolidated, as prescribed in section 75-6506, or an annexation election without the joint assumption of bonded indebtedness by the elementary district to be annexed as prescribed in section 75-6508, shall be conducted in the manner prescribed by this title for school elections. Any elector qualified to vote under the provisions of section 75-6410 may vote at the election.

Conduct.

Ballots.

In a consolidation election the ballots shall read, after

stating the consolidation proposition, "FOR consolidation without assumption of bonded indebtedness" and "AGAINST consolidation without assumption of bonded indebtedness." The consolidation proposition shall be approved by a district if a majority of those voting in a district approve the proposition, otherwise it shall be disapproved.

For and against.

Majority approval.

In an annexation election the ballots shall read, after stating the annexation proposition, "FOR annexation without assumption of bonded indebtedness" and "AGAINST annexation without assumption of bonded indebtedness." The annexation proposition shall be approved by a district if a majority of those voting approve the proposition, otherwise it shall be disapproved.

Ballots.

For and against.

Majority approval.

Section 170. Section 75-6511. **Elementary district consolidation of two or more counties to organize joint elementary district.** Any two (2) or more elementary districts located in more than one (1) county and whose territory is contiguous may consolidate to organize a joint elementary district. When a joint district consolidation proposition is to be introduced and considered in two (2) or more districts, the consolidation procedure for elementary district consolidation without the assumption of bonded indebtedness prescribed in sections 75-6506 and 75-6510 shall be used except that each district shall submit its resolution or petition and its election certificate to the county superintendent of its resident county and the several county superintendents shall jointly perform the duties prescribed for the county superintendent in section 75-6506.

Joint elementary district.

Consolidation procedure.

Joint duties.

Section 171. Section 75-6512. **Elementary district abandonment.** The county superintendent shall declare an elementary district to be abandoned and order the attachment of the territory of such district to a contiguous district of the county when: (1) a school has not been operated by a district for at least one hundred eighty (180) days under the provisions of section 75-7402 for each of three (3) consecutive school fiscal years; or

Abandonment and order of attachment.

180 days.

3 years.

(2) there is an insufficient number of residents who are qualified electors of the district that can and will serve as the trustees and clerk of the district so that a legal board of trustees can be organized.

Insufficient residents.

The county superintendent shall notify the elementary

Notice.

district that has not operated a school for two (2) consecutive years before the first day of the third year that the failure to operate a school for one hundred eighty (180) days during the ensuing school fiscal year shall constitute grounds for abandonment of such district at the conclusion of the succeeding school fiscal year. Failure by the county superintendent to provide such notification shall not constitute a waiver of the abandonment requirement prescribed in subsection (1) above.

Grounds for abandonment.

Any abandonment under subsection (1) shall become effective on the first day of July. Any abandonment under subsection (2) of an elementary district shall become effective immediately on the date of the abandonment order.

Effective July 1.

Date of order.

Section 172. Section 75-6513. **Joint elementary district abandonment.** Any joint elementary district shall be abandoned for the reasons prescribed in section 75-6512 or when the taxable value of the taxable property of the portion of the joint district that is located within any one of the counties is of so little value that the continued inclusion of such portion in the joint district is not justified. The county superintendent designated by section 75-6720 for school budgeting purposes shall be responsible for ordering the abandonment of the joint district and shall immediately send a copy of such order to the county superintendent of each county with territory in the joint district.

Abandonment—joint elementary district small taxable value.

Order.

Distribution.

After the issuance or receipt of the abandonment order, each county superintendent shall attach the territory within his county to a contiguous elementary district within his county; except when the district is abandoned because of the lack of taxable property in one county's territory of the district and a school is operated in another county's territory of the district which territory has a taxable value of seventy-five thousand dollars ($75,000) or more, the county superintendent of the county where such territory is located shall not attach it to another district. Such territory shall continue to operate as an elementary district within the county.

County superintendent shall attach—exception.

Taxable value—$75,000 or more.

Any abandonment of a joint elementary district shall become effective on the date of the abandonment order except that district abandonments under the provisions of subsection (1) of section 75-6512 shall become effective on the first day of July.

Effective date.

Section 173. Section 75-6514. **Joint elementary district**

dissolution. Any joint elementary district may be dissolved. A proposition to dissolve a joint elementary district shall be introduced by a petition signed by a majority of the electors, qualified under the provisions of section 75-6410, who reside in the territory of the joint district that is located within one (1) county. Such petition shall be addressed and presented to the county superintendent of the county of residence of the petitioners.

Joint elementary district—dissolution.

Petition.

Whenever a county superintendent receives a valid petition for the dissolution of a joint elementary district, he shall immediately notify the county superintendents of all the other counties with territory located in the joint district. The county superintendents jointly shall, within ten (10) days after the receipt of the petition and as provided by section 75-6406, order the trustees of the joint district to call an election. The trustees shall call and conduct, at the same time, separate elections in each portion of the joint district that is located in a separate county. Such elections shall be called and conducted in the manner prescribed in this title for school elections and shall be considered as if each were an election in a separate district. An elector who may vote at a joint district dissolution election shall be qualified to vote under the provisions of section 75-6410. The election judges for each separate election in the joint district shall send the election certificate to the county superintendent of the county in which they serve.

Notice.

Within 10 days.

Order to call election.

Conduct of elections.

Voter qualification.

Certificate.

After the receipt of the election certificates, the county superintendents shall jointly determine the result of such election on the following basis: (1) If a majority of all the joint district electors voting at each election conducted in the joint district are in favor of the dissolution of the joint district, the dissolution of the joint elementary district shall be approved;

Dissolution approval.

(2) If two-thirds (2/3) of the electors voting at one of the elections conducted in a county's portion of the joint district vote in favor of the joint district dissolution, the dissolution of that portion of such joint district may be approved if all the county superintendents involved in such dissolution proposition agree that such dissolution will not place an undue hardship on any other county's portion of the joint district and there is no good and sufficient reason why such dissolution should not be made; or

Two-thirds vote—dissolution of portion.

Nonapproval.

(3) If the conditions of either subsection (1) or (2) cannot be satisfied, the dissolution of the joint district shall be disapproved.

Order.

The county supeintendents shall jointly order the joint elementary district dissolution if the proposition is approved and, whether it has been approved or disapproved, shall jointly notify the joint district of the result. The dissolution of a joint district shall become effective on the first day of the ensuing school fiscal year.

Notice.

Effective day.

When the dissolution of a joint elementary district has been approved and ordered under subsection (1) above, the county superintendent of each county shall individually order the attachment of the territory of the dissolved joint elementary district within his county to a contiguous elementary district within his county; except when a school is operated in such territory, in which case the territory shall operate as a separate elementary district of the county.

Order of attachment.

Attachment.

When the dissolution of a joint elementary district has been approved and ordered under the provisions of subsection (2) above, the county superintendent of the county where the dissolved portion of the joint elementary district is located shall attach such territory to a contiguous elementary district within his county.

No subsequent election within three years.

In the event a dissolution proposition is disapproved, no subsequent joint elementary district dissolution election shall be held within three (3) years thereafter.

Boundary change-licensed child care institution district.

Section 174. Section 75-6515. **Boundary change of licensed child care institution elementary district.** The boundaries of any elementary district created under the provisions of chapter 105, Laws of 1965 shall be changed by the acquisition of any land contiguous to the district by the licensed child care institution for which such district was created. The boundaries shall be changed to include the additional acquired land in the district.

Majority of electors may petition.

Section 175. Section 75-6516. **Transfer of territory from one elementary district to another.** A majority of the electors of any elementary district, who are qualified to vote under the provisions of section 75-6411 and who reside in territory which is part of an elementary district,

Transfer of territory to elementary district—requirements.

may petition the county superintendent to transfer such territory to another elementary district when: (1) such territory is contiguous to the district to which it is to be attached;

(2) such territory is not located within three miles, over the shortest practical route, of an operating school of the district from which it is to be detached; and

Limitations.

(3) the transfer of such territory will not reduce the taxable value of the district to less than seventy-five thousand dollars ($75,000) unless the remaining territory of the district will contain not less than fifty thousand (50,000) acres of nontaxable Indian land.

Petition provisions.

The petition shall be addressed to the county superintendent and shall describe the territory that is requested to be transferred and to what district it is to be transferred, state the reasons why such transfer is requested, and state the number of elementary school-age children residing in such territory.

Filing.

Hearing within 40 days.

Notices posted.

On receipt of a valid petition for a territory transfer, the county superintendent shall file such petition, set a hearing place, date, and time for consideration of the petition that is not more than forty (40) days after the receipt of the petition and give notice of the place, date, and time of the hearing. The notices shall be posted in the districts affected by the request in the manner prescribed in this title for school elections, with at least one such notice posted in the territory to be transferred.

Conduct of hearing.

Order of county superintendent.

Final after 30 days unless appealed.

The county superintendent shall conduct the hearing as scheduled, and any resident or taxpayer of the affected districts shall be heard. If the county superintendent shall deem it advisable and in the best interests of the residents of such territory, he shall grant the petitioned request and order the change of district boundaries to coincide with the boundary description in the petition. Otherwise, he shall, by order, deny the request. Either of the orders shall be final thirty (30) days after its date unless it is appealed to the board of county commissioners by a resident or taxpayer of either district affected by the territory transfer.

Decision of board final.

The decision of the board of county commissioners, after a hearing on such matter and consideration of the material presented at the county superintendent's hearing, shall be final.

Whenever a petition to transfer territory from one elementary district to another elementary district would create a joint elementary district or affect the boundary of an existing joint elementary district, the petition shall be presented to the county superintendent of the county where the territory is located. Such county superintendent shall notify any other county superintendents of counties with districts affected by such petition and the duties prescribed in this section for the county superintendent and the board of county commissioners shall be performed jointly by such county officials.

Presentation of petition.

Notice.

Joint duties.

Section 176. Section 75-6517. **Limitations for creation of new elementary district.** A new elementary district may be created out of the territory of an existing elementary district or districts when: (1) the taxable value of the taxable property of the territory proposed to be included in such new district is seventy-five thousand dollars ($75,000) or more, except that when fifty thousand (50,000) acres or more of such new district are nontaxable Indian land, this limitation shall not be applicable;

Creation of new elementary districts.

Limitations.

Indian land.

(2) the taxable value of the taxable property of each existing district from which territory would be detached will be seventy-five thousand dollars ($75,000) or more after the territory is detached; and

Taxable value.

(3) the number of school census children between the ages of six (6) and sixteen (16) years according to the last completed district census reports in any of the existing districts is not reduced to less than fifteen (15).

Number of children.

Section 177. Section 75-6518. **Procedure for creation of a new elementary district.** The petition requesting the creation of a new elementary district out of the territory of an elementary district or districts shall be addressed to the county superintendent and shall: (1) describe the territory that is requested to be incorporated in the new district and the taxable value of such territory as shown by the last completed assessment roll;

Petition.

Provisions.

Land description.

(2) state the reasons why the creation of a new district is requested; and

Reasons.

(3) be signed by the parents or guardians of not less than ten (10) children between the ages of six (6) and sixteen (16) years who reside in the territory that would be included in the new district and who reside more than

Signatures required.

three (3) miles over the shortest practical route from an operating school.

When a county superintendent receives a valid petition requesting the creation of a new district, he shall file such petition, set a hearing place, date, and time for consideration of such petition that is not more than forty (40) days after the receipt of the petition and give notice of the place, date, and time of the hearing. The notices shall be posted in the districts affected by the request in the manner prescribed in this title for school elections, with at least one such notice posted in the territory to be included in the new district.

Filing.

Hearing within 40 days.

Notices posted.

The county superintendent shall conduct the hearing as scheduled unless before or at the time of the hearing he receives a protest petition signed by a majority of the electors of the proposed new district who are qualified to vote under the provisions of section 75-6410. A valid protest petition shall conclusively deny the creation of a new district. If a hearing is conducted, any resident or taxpayer of the affected districts shall be heard. If the county superintendent shall deem it advisable and in the best interests of the residents of the proposed new district, he shall grant the petitioned request and order the creation of a new elementary district with its boundaries coinciding with the boundaries defined in the petition. Otherwise, he shall, by order, deny the request.

Conduct of hearing.

Protest petition.

Order of creation.

Denial.

Either of the county superintendent's orders may be appealed to the board of county commissioners within thirty (30) days after the date of such order. Such appeal shall be in writing, signed by not less than three (3) resident taxpayers, and shall state sufficient facts to show the appellants' right to appeal the order. The board of county commissioners shall call a hearing of such appeal for the first regular meeting of the commission that will allow notice of the hearing to be given in accordance with the requirements for notice of school elections. After considering the material presented at the county superintendent's hearing and such other material as is presented at its hearing, the board of county commissioners shall render a decision on the creation of such new elementary district. Such decision shall be final.

Appeal within 30 days.

Hearing.

Board decision final.

When a new elementary district is created, the county

Appointment of trustees.

superintendent shall appoint the trustees of the new district giving preference in his selections to any trustees who were trustees of an old district and who reside in the new district. Any trustee position vacancies that may occur in the other districts shall be filled in the manner provided for filling trustee position vacancies for such district. Any trustee appointed under the provisions of this section shall serve until a successor is elected at the next regular school election and qualified.

The order of the county superintendent or, if his order is appealed, the decision of the board of county commissioners creating a new district under this section shall be null and void and the new district shall cease to exist, if such district does not open and operate a school within eight (8) months after the date of such order or decision. If the new district does not satisfy this requirement, the territory shall be re-incorporated in the district or districts in which it was located before the creation of such new district, and the trustees shall, thereafter, be without capacity to act.

Null and void unless school opend in 8 months.

Re-incorporation.

Section 178. Section 75-6519. **Methods of changing high school district boundaries.** The trustees of any high school district, except the trustees of a high school located in a county which has not been divided into high school districts or become a high school district by county high school unification, may request a change of the high school boundaries of their district or county as provided by this section.

Trustees may request change of high school boundaries.

Whenever the trustees of a high school district shall pass a resolution requesting the change of their district's boundary or the redivision of the county into high school districts, they shall send such resolution to the county superintendent. When the trustees request a boundary change of their district or a redivision of the county into high school districts, they shall describe the requested boundary change or redivision and give the reasons therefor. A requested boundary change of a district shall conform to one of the following types: (1) consolidation of high school districts shall be the merging of two (2) or more high school districts to form a single high school district;

Resolution.

Description.

Reasons.

Limitations.

(2) annexation shall be the attachment of all the territory of a high school district to another high school district or districts;

Annexation.

(3) transfer of territory shall be the detachment of territory from a high school district and the attachment of such territory to another high school district or districts; or

Transfer of territory.

(4) creation of a new high school district shall be the formation of a new high school district from the territory presently incorporated in the requesting high school district.

Creation—new high school district.

Whenever the trustees of any high school district request a boundary change or a redivision that would create a joint high school district or, in any way, affect the boundary of an existing joint high school district, they shall send the boundary change resolution to the county superintendent of each county that would be affected by such boundary change.

Boundary change resolution.

Section 179. Section 75-6520. **Establishment of high school districts in a county.** The trustees of a high school located in a county, which has not been divided into high school districts or become a high school district by county high school unification, may request the division of the county into a high school district or districts. The request shall be sent to the county superintendent. A high school district or districts shall not be created in a county having a population of more than forty-five thousand (45,000), based on the United States census of 1930.

Trustees may request division of county into high school districts.

Limitation.

Section 180. Section 75-6521. **High school boundary commission and boundary change, division or redivision hearing procedure.** Each county of the state of Montana shall have a high school boundary commission consisting of the board of county commissioners and the county superintendent. Whenever a county superintendent receives a resolution from the trustees of any high school district requesting a boundary change or a request to divide or redivide the county into high school districts, he shall immediately notify the high school boundary commission. Such commission shall set a time, date, and place for a public hearing on the request. The hearing shall be set for a date within sixty (60) days after the receipt of the request and any interested person may appear and be heard on such request. The county superintendent shall send a written notice of the public hearing on a requested boundary change, division, or redivision to the trustees of each elementary and high school district of the county which

Boundary commission.

Notice.

Hearing within 60 days.

Notices.

has territory that would be affected by the change. The county superintendent shall also give notice of such public hearing in accordance with the requirement for school election notices prescribed by school election provisions of this title. The certificate of the county superintendent filed with the high school boundary commission reciting that such notice requirements have been satisfied shall be conclusive.

Certificate conlusive.

Considerations.

In considering a request to change high school district boundaries or to divide or redivide the county into high school districts, the high school boundary commission shall give primary consideration to the convenience of the high school pupils of the territory under consideration. Such commission also shall consider the grouping of elementary districts to be encompassed by a high school district or districts, and shall group contiguous elementary districts within a high school district unless obstacles of travel such as mountains, rivers, impractical routes of travel, or distance make such grouping impractical. After the hearing the high school boundary commission may grant or deny any request, made under the provisions of section 75-6519, for a high school district boundary change, but shall order the division of the county into high school districts whenever requested under the provisions of section 75-6520. In the latter case the commission's discretion shall extend only to the establishing of boundaries for the newly created high school district or districts.

Convenience.

Grouping of districts.

Travel.

Terrain.

Order.

Establishing of boundaries.

Section 181. Section 75-6522. **Approval of high school district boundary when elementary district territory divided by commission.** If the order of a high school boundary commission would divide the territory of any elementary district between two (2) or more high school districts or would divide the territory of a joint elementary district which is located within the county between high school districts, the county superintendent shall, under the provisions of section 75-6406, order the trustees of such elementary district to call an election. The election shall be called and conducted in the manner prescribed in this title for school elections. An elector who may vote on the proposition shall be qualified under the provisions of section 75-6410. If the election is required because of the division of the territory of a joint elementary district located in the county, the electors shall be residents of such territory. If a majority of the electors voting at such election approve the division

Divided districts.

Order to call election.

Elector qualifications.

Majority approval.

of the elementary district or the county's territory in a joint elementary district, the order of the high school boundary commission shall be approved. If a majority of the electors voting at such election do not approve such division, the high school boundary commission shall reconsider its action and shall establish different high school boundary lines, subject to the same limitations herein described.

Nonapproval.

Procedure.

Section 182 Section 75-6523. **Counter proposed high school district boundaries by electors and election.** Whenever a high school boundary commission issues an order to change high school district boundary lines, twenty per cent (20%) or more of the electors of any elementary district with territory affected by the high school boundary change who are qualified to vote under the provisions of section 75-6410 may protest the boundaries established by the order of the commission within thirty (30) days after the date of such order. Such protest shall be in the form of a petition addressed to the county superintendent and it shall provide a counter proposition to the new high school boundaries established by the order of the commission for the disposition of the territory of the elementary district for high school districting purposes. The provisions of this section shall not be used in elementary districts that have approved high school boundaries under the provisions of section 75-6522.

20% of electors may protest boundary change within 30 days.

Petition to county superintendent counter proposition.

Limitation.

When the county superintendent receives a valid petition from an elementary district, he shall, within ten (10) days after the receipt of such petition, and as provided by section 75-6423, order the trustees of such elementary district to call an election to consider the high school boundary counter proposition described in such petition. The trustees shall call and conduct the election in the manner prescribed in this title for school elections. An elector who may vote on the proposition shall be qualified to vote under the provisions of section 75-6410. If a majority of the electors voting at the election approve the counter proposition, the high school boundaries described by the counter proposition shall be approved, and the order of the high school boundary commission shall be amended to establish such high school boundaries. If a majority of the electors voting at such election disapprove the counter proposition, the order of the high school boundary commission shall be confirmed and shall be final.

Order to call election.

Conduct.

Election qualifications.

Majority approval of counter proposition.

Nonapproval.

Order confirmed.

County superintendent may order abandonment of high school district.

Section 183. Section 75-6524. **High school district abandonment.** Within six (6) months after a high school district fails to operate an accredited high school within its boundaries for a period of one (1) year, the county superintendent shall order the high school district abandoned. At least twenty (20) days before issuing an abandonment order, the county superintendent shall notify the trustees of the high school district of the impending abandonment. When the order is issued, the county superintendent also shall order the attachment of the territory of each elementary district of the abandoned high school district to another high school district or districts of the county.

Notice.

Order of attachment.

Boundaries may establish joint high school district.

Section 184. Section 75-6525. **Limitations for organization of joint high school district.** The boundaries of any high school district which encompass a county's portion of a joint elementary district where an elementary school is operated may be changed to establish a joint high school district. Such high school district boundary change shall be a transfer of all the territory located in another county's portion of the same joint elementary district. No such boundary change shall be made when: (1) the territory transfer would reduce the taxable value of the taxable property of another high school district to less than seven hundred fifty thousand dollars ($750,000); or

Limitations.

Taxable value reduced.

(2) a portion of the territory to be transferred is less than three (3) miles from an operating, accredited high school located in another high school district.

3 mile limit.

Procedure.

Section 185. Section 75-6526. **Procedure for organization of joint high school district.** The high school district boundary changes permitted under section 75-6525 shall be made according to the following procedure: (1) A majority of the electors of a joint elementary district who are qualified to vote under the provisions of section 75-6410 and who reside in a county where the elementary school is not located may petition the county superintendent of their resident county to transfer the territory of the joint elementary district where they reside to establish a joint high school district. Such petition also shall state the reasons for requesting such a boundary change and the number of high school pupils residing in the territory.

Majority may petition.

Reasons.

Number of high school pupils.

(2) When the county superintendent receives a valid petition requesting the establishment of a joint high school

Hearing within 40 days.

district, he shall set a time, date, and place for a public hearing on the request which is not more than forty (40) days after the receipt of the petition. He shall give notice of such hearing in accordance with the election requirements for school election notices prescribed by school election provisions of this title. The county superintendent shall also notify the county superintendent of the county where the high school is located and the trustees of the high school district.

Notices.

Conduct of hearing.

(3) The county superintendent shall hear the request to change the high school district boundaries at the place, time, and date set for the hearing, and any interested person may appear and be heard on the request. If the county superintendent deems it advisable and in the best interests of the residents of the territory to be transferred, he shall grant the petitioned request and order the change of high school boundaries to establish a joint high school district. Otherwise, he shall, by order, deny the request.

Order to establish joint high school district.

Approval required.

(4) If the county superintendent orders the establishment of a joint high school district, he shall immediately send the order to the county superintendent of the county where the high school is located. If the county superintendent of such county approves the order, he shall send such order to the trustees of the high school district. If the trustees approve the order, the boundary change shall become effective. Without the approval of such county superintendent and trustees, the boundary change shall fail.

Appeal within 30 days.

Hearing.

Board decision final.

(5) At any time within thirty (30) days after the date of the county superintendent's order to grant or deny the request to establish a joint high school district, an appeal may be made to the board of county commissioners of the county in which the petition originated. The board of county commissioners shall conduct a hearing for the appeal, and their decision shall be final, subject to the approvals required by subsection (4).

Board may consolidate high school districts.

Section 186. Section 75-6527. **High school district consolidation by board of county commissioners.** The board of county commissioners of any county shall have the authority to consolidate any two or more high school districts of the county whenever it appears to them that it would be for the best interest of the pupils and other residents of the districts and the county. The board of county commissioners shall have complete responsibility and authority to de-

Authority to determine.

termine all questions involved in effecting the consolidation of the high school districts, except that before it shall become effective any such boundary change shall be approved by the superintendent of public instruction.

Exception.

Section 187. Section 75-6528. **High school district boundary approval by superintendent of public instruction.** Whenever a high school boundary commission orders changes in high school district boundaries or a division or redivision of the county under the provisions of this title, its order shall not be final until it has been approved by the superintendent of public instruction. The superintendent of public instruction shall not approve any high school boundary commission order that: (1) is dated less than one (1) year since the last high school boundary commission order was approved for such county;

Boundary commission orders—approval by state superintendent.

Limitations on approvals.

(2) has not been confirmed by the high school boundary commission of each county affected by the boundary change when it involves a joint high school district; or

(3) does not provide for the high school district boundaries approved by the electors of an elementary district under the provisions of sections 75-6522 or 75-6523.

Section 188. Section 75-6529. **Bonded indebtedness against original territory except when assumed by election.** Whenever district boundaries are changed in any manner prescribed in this title, the existing bonded indebtedness against any district or territory affected by a change of boundaries shall remain the indebtedness of the original territory against which such bonds were issued and shall be paid by levies on the original territory; except when elementary districts are consolidated with the mutual assumption of bonded indebtedness or when an elementary district is annexed with a joint assumption of the annexing district's bonded indebtedness with the annexing district. Any monies to the credit of the debt service fund of a district when its boundaries are changed shall be used to pay the existing bond principal and interest of the original territory issuing such bonds as it becomes due or for bond redemption under the bonding provisions of this title.

Bonded indebtedness not affected unless mutually assumed.

Use of monies—debt service funds.

Section 189. Section 75-6530. **Property tax valuation after district boundary change.** The property tax valuation used under the provisions of section 75-6717 for the purposes of fixing the tax levies, except the debt service

Property tax valuation on boundary changes.

fund tax levy, for a district that has had a boundary change at any time before the second Monday in August shall include the property tax valuation of any territory added to the district by such boundary change, or exclude the property tax valuation of any territory detached from the district by such boundary change.

Section 190. Section 75-6531. **Trustees of district affected by boundary change.** The trustees of any district to which the territory of another district is attached as a result of annexation, abandonment, joint district dissolution, territory transfer, or any other method of changing district boundaries except by the consolidation of elementary districts or by the creation of a new elementary district shall continue to be the trustees of such district with the same powers, duties, and responsibilities and subject to the same limitations provided by law, as if there had been no boundary change. In the case of elementary district consolidation or the creation of a new elementary district, the appointed trustees of the resulting elementary district shall assume their trustee positions under the authority of section 75-6506 or section 75-6517, whichever is applicable.

Trustees shall continue in office.

Exceptions.

Appointed trustees.

Section 191. Section 75-6532. **Cash disposition when district ceases to exist.** Whenever a district shall cease to exist in any manner prescribed in this title except when districts are consolidated, the cash on hand to the credit of the funds of the district and the debts of such district shall be allocated in the following manner: (1) Any cash to the credit of the district shall be used to pay any debts of the district, including bonded indebtedness, except that any cash available in the debt service fund shall be used first to pay bond interest and all outstanding bonds.

District ceasing to exist—disposition of cash.

Payment of debts.

(2) If any cash remains to the credit of the district after paying its debts, the cash shall be transferred by the county treasurer to the credit of the district or districts assuming its territory.

Transfer.

When the territory is assumed by more than one district, the remaining cash shall be prorated between the districts on the basis of the number of census children residing within the territory assumed by each district as determined by the county superintendent.

Prorated.

(3) If any debts, other than bonded indebtedness remain as an obligation of the district after the cash has been

Assignment.

utilized under the provisions of subsection (1) above, the debts shall be assigned in the same manner prescribed for the transfer of cash under subsection (2) above.

Consolidated districts—disposition of cash.

Section 192. Section 75-6533. **Cash disposition when districts consolidated.** Whenever two (2) or more districts are consolidated without the mutual assumption of bonded indebtedness, all cash and debts, other than cash credited to the debt service fund and debts for bonded indebtedness, shall be credited or debited to the same types of funds of the consolidated district as the funds from which they were transferred by the county treasurer. In addition when two (2) or more elementary districts are consolidated with the mutual assumption of bonded indebtedness, the cash credited to the debt service fund and the bonded indebtedness also shall be transferred to a similar fund of the consolidated district.

Transfer to same type of funds.

Transfer to similar fund.

Newly created district—disposition of cash.

Section 193. Section 75-6534. **Cash disposition when new elementary district created.** Whenever a new district is created, under the provisions of section 75-6518, the end-of-the-year cash balance in each fund of each district having territory that has been placed in the new district, except the debt service fund, shall be apportioned by the county superintendent on the basis of the proportion that the number of school census children residing in the new district is of the total number of school census children residing in the old district before the creation of the new district. After the new district has operated a school for one (1) month, the county superintendent shall order the county treasurer to transfer the cash to which the new district is entitled to the credit of the fund of the new district which corresponds with the fund from which it was transferred. The new district shall not assume any debts of the old district other than existing bonded indebtedness which remains an obligation against the taxable property of the territory included in the new district.

Apportionment.

After one month—order to transfer.

Retention of cash.

Section 194. Section 75-6535. **No cash disposition when territory transfer.** Whenever only a portion of the territory of one district is transferred to another district, all cash and debts, other than bonded indebtedness, shall be retained by the district originally realizing the cash or debt.

Title to property vests in district of situs.

Section 195. Section 75-6536. **Property disposition when district boundaries changed.** Whenever district boundaries are changed, title to the real and personal property of the districts involved in such boundary change shall vest in the district which encompasses the territory where such real or personal property was located at the time the legal procedure to authorize the boundary change was introduced. The disposition or utilization of such property will be in the discretion of the trustees of the district encompassing the territory of its location, as provided by law.

District ceasing to exist—duty to surrender records.

Section 196. Section 75-6537. **Surrender of records when district ceases to exist.** Within ten (10) days after any district ceases to exist, the trustees shall surrender all minutes, documents, and other records of the district to the trustees of the district assuming its territory or, if more than one (1) district assumes its territory, to the county superintendent.

Unified school system.

Section 197. Section 75-6538. **County high school unification.** Any county high school may be unified with the elementary district where the county high school building is located to establish a unified school system under a unified board of trustees. If the county has not been divided into high school districts, a high school district with boundaries coterminous with the county boundaries shall be created, except that such high school district shall not include the territory of any existing joint high school district located in the county. The territory of an existing joint high school district shall remain a part of such joint high school district. The creation of high school districts under this provision shall be in lieu of the high school district division provisions of section 75-6520.

Creation.

Exceptions.

Proposition to unify.

A proposition to unify a county high school with the elementary district where the county high school building is located shall be introduced whenever: (1) the trustees of the county high school and the trustees of the elementary district individually pass resolutions requesting the county superintendent to order an election to consider a unification proposition; or

Resolutions of trustees.

20% of electors.

(2) not less than twenty per cent (20%) of the electors of the county or, if the county has been divided into high school districts, the electors of the high school district where the county high school is located, and who are qualified to vote under the provisions of section 75-6410, petition the county superintendent to order an election to consider a unification proposition.

Petition.

Within 10 days. When the county superintendent has received the trustees' resolutions or a valid petition, he shall, within ten (10) days after the receipt of the last resolution or petition and under the provisions of section 75-6406, order the county high school to call an election to consider a unification proposition. The trustees of the county high school shall call and conduct an election in the manner prescribed in this title for school elections. An elector who may vote on the unification proposition shall be qualified to vote under the provisions of section 75-6410. The ballot for a county high school unification proposition shall be substantially in the following form:

Order to call election.

Elector qualifications.

Ballot form.

OFFICIAL BALLOT

COUNTY HIGH SCHOOL UNIFICATION ELECTION

Shall ..... County High School be unified with District No. ....., ... County to establish a unified school system under a unified board of trustees?

☐ FOR the unification of the county high school.

☐ AGAINST the unification of the county high school.

Certificate. When the county superintendent receives the election certificate from the trustees of the county high school, he shall issue an order declaring the unification of the county high school with the elementary district identified on the ballot as of the next succeeding July 1, if a majority of those electors voting at such election have voted for the unification proposition.

Order declaring unification.

July 1.

Order of disapproval. If a majority of those electors voting at the election have voted against the unification proposition, he shall order the disapproval of the unification proposition.

Section 198. Section 75-6539. **Transactions after approved county high school unification.** Whenever a county high school is unified with the elementary district where the county high school building is located, the following transactions shall be completed on or before the first of July when the unification becomes effective: (1) The high school boundary commission, without the approval of the superintendent of public instruction, shall order the creation of a high school district if the county has not already been divided into high school districts.

Mandatory transactions July 1.

Order of creation.

Surrender of records. (2) The county high school trustees, who shall not have the capacity to govern the high school district upon unification, shall surrender all minutes, documents and other records of the county high school to the trustees of the high school district.

Additional nominating areas. (3) The county superintendent shall order the establishment of additional high school trustee nominating areas in the manner prescribed in sections 75-5903 and 75-5904, if requested to do so by a majority of the outlying elementary districts located in the high school district. When the county superintendent establishes such areas, he shall appoint additional high school district trustees from each area who shall hold office until a successor is elected at the next regular school election and qualified.

Appointment additional trustees.

Transfer of cash balances. (4) The county treasurer, after allowing for any outstanding or registered warrants, shall transfer all end-of-the-year fund cash balances of the county high school to similar funds established for the high school district. All previous years' taxes levied and collected for the county high school shall be credited to the appropriate fund of the high school district.

Prior taxes.

Deeds of conveyance. (5) The board of county commissioners shall execute, in the name of the county, all necessary and appropriate deeds, bills of sale and other instruments for the conveyance of title to all real and personal property of the county high school, including all appurtenances and hereditaments, to the high school district.

Outstanding county high school bonds. All county high school bonds outstanding at the time of unification shall remain the obligation of the county or that portion of the county against which the bonds were originally issued. The high school district shall be responsible for the maintenance of the debt service fund for such bonds. It shall be the duty of the board of county commissioners and the trustees of the high school district to perform the duties prescribed in the school budgeting and bond redemption provisions of this title for the redemption and interest payments of the county high school bonds in the same manner and by the same means as though the county high school had not been unified.

Duties of board of county commissioners.

Definitions. Section 199. Section 75-6601. **Definition of various schools.** As used in this title, unless the context clearly

"School." indicates otherwise, the term "school" means an institution for the teaching of children that is established and maintained under the laws of the State of Montana at public expense.

District trustees shall designate assignments. The trustees of any district shall designate the grade assignments for the schools of the district but for the purposes of this title each school shall be known as:

Elementary school defined. (1) an elementary school when it comprises the work of any combination of kindergarten, other preschool programs or the first eight (8) grades, or their equivalents, except when an accredited junior high school or an accredited six-year high school is operated by the district, grades seven (7) and eight (8), or their equivalents, shall not be considered as elementary grades; or

High school defined. (2) a high school when it comprises the work of one (1) or more grades of school work, or their equivalents, intermediate between the elementary schools and the institutions of higher education of the State of Montana. Types of high schools shall be designated as follows:

Junior high school defined. (a) a junior high school is a school comprising the work of grades seven (7) through nine (9), or their equivalents, that has been accredited as a junior high school under the provisions of section 75-7502;

Senior high school defined. (b) a senior high school is a school which comprises the work of grades ten (10) through twelve (12), or their equivalents, and which is operated in conjunction with a junior high school;

Six-year high school defined. (c) a six-year high school is a school comprising the work of grades seven (7) through twelve (12), or their equivalents, that has been accredited as a six-year high school under the provisions of section 75-7502;

Four-year high school defined. (d) a four-year high school is a school comprising the work of grades nine (9) through twelve (12), or their equivalents;

County high school defined. (e) a county high school is a four-year high school operated as an agency of county government and established under the provisions of the acts of March 3, 1899, March 14, 1901 and any subsequent amendments thereto; or

Post-secondary vocational-technical center. (f) a post-secondary vocational-technical center established under the provisions of section 75-7707.

Unless otherwise required by law, the trustees of an elementary district in which a high school is located and the trustees of the high school district operating such high school may organize the schools of their districts to form a kindergarten through grade twelve (12) school system, provided that the high school and elementary trustees shall not assume responsibility for the administration of grades which are not properly within their jurisdiction. Kindergartens authorized.

Section 200. Section 75-6602. **Opening or reopening of elementary school.** The trustees of any elementary district may open or reopen an elementary school of the district when such opening or reopening has been approved in accordance with the following procedure: (1) The parents of at least three (3) pupils who would attend the opened or reopened school petition the trustees of the district to open or reopen a school during the ensuing school fiscal year. Such petition shall identify the school, state the reasons for requesting the opening or reopening, and give the names of the children who would attend such school. Trustees may open elementary school. Procedure. Parents petition to trustees.

(2) If the trustees approve the opening or reopening of a school, they shall send the petition with a copy of their approval resolution to the county superintendent. The county superintendent shall review the petition to determine if the average number belonging (ANB) of such school would be five (5) or more. Trustees resolution. Review by county superintendent. ANB—5 or more.

(3) The county superintendent shall present the petition, trustees' approval, and his findings on the probable ANB to the board of county commissioners (budget board) for their consideration. The budget board shall deny the opening or reopening of any school if the county superintendent's enrollment estimate for such school is less than five (5) ANB. In all other cases, the budget board may approve or disapprove the requested opening or reopening of the elementary school. Budget board—denial. May approve.

(4) If the budget board approves a school opening or reopening, the county superintendent shall send a copy of such approval, along with the petition, trustees' approval, and his estimate of the probable ANB to the superintendent of public instruction. The superintendent of public instruction shall approve or disapprove the requested opening or reopening of the elementary school. If the State superintendent may approve.

opening or reopening is approved, the superintendent of public instruction shall approve or adjust the ANB estimate of the county superintendent for such school and such ANB amount shall be used for budgeting and foundation program purposes during the ensuing school fiscal year. No ANB amount shall be approved for the ensuing school fiscal year for an opening or reopening school when the request for such school has not been received by the superintendent of public instruction before the fourth Monday of June.

Nonapproval.

4th Monday of June.

Section 201. Section 75-6603. **Opening or reopening of a high school.** The trustees of any high school district may open or reopen a high school of the district or a branch of a high school of the district when such opening or reopening has been approved by the superintendent of public instruction; except when a county high school is discontinued by a unification action, the trustees may establish, by resolution, a high school to be operated by the high school district without further action or approval. When the trustees of a high school district resolve to open or reopen a high school, they shall apply to the superintendent of public instruction for approval to open or reopen such school by the first day of June before the school fiscal year in which they intend to open or reopen the high school. Such application shall: (1) state their reasons why the high school should be opened or reopened;

Trustees may open high school.

Resolution.

Application for approval—June 1.

Required statements.

(2) the probable enrollment of such high school;

(3) the distance and road conditions of the route to neighboring high schools;

(4) the taxable value of the district;

(5) the building and equipment facilities available for such high school;

(6) the planned course of instruction for such high school;

(7) the planned methods of complying with high school standards of accreditation; and

(8) any other information that may be required by the superintendent of public instruction.

Investigation.

The superintendent of public instruction shall investigate the application for the opening or reopening of a

high school and shall approve or disapprove the opening of the high school before the fourth Monday of June preceding the first year of intended operation. If the opening is approved, the high school district trustees may open such high school.

4th Monday in June.

Whenever the opening or reopening of a high school is approved for the ensuing school fiscal year, the county superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment for the high school. The ANB determined by the county superintendent shall be used for budgeting and foundation program purposes.

Estimate of ANB.

Purpose.

Nothing herein contained shall be construed so as to preclude the trustees of a high school district from establishing more than one (1) high school in the district.

More than one high school.

Section 202. Section 75-6604. **Opening of a junior high school.** The trustees of any elementary district and the trustees of the high school district in which such elementary district is located may open a junior high school when such opening has been approved by the superintendent of public instruction; except that when the high school district operates a county high school, the opening of a junior high school shall be approved under the provisions of section 75-6605.

Trustees may open junior high school—approval.

When the trustees of such districts resolve to open a junior high school, they shall jointly apply to the superintendent of public instruction for approval to open such school by the first day of June before the school fiscal year in which they intend to open the junior high school. The application shall contain such information as is required under section 75-6603 for an application to open a high school.

Procedure.

Application.

June 1.

Required statements.

Investigation.

The superintendent of public instruction shall investigate the application for the opening of a junior high school and shall approve or disapprove the opening of the junior high school before the fourth Monday of June preceding the first year of intended operation. If the opening is approved, the trustees of the elementary district and the high school district may jointly open such school.

Approval or disapproval 4th Monday in June.

Whenever the opening of a junior high school is ap-

Estimate of ANB. proved for the ensuing school fiscal year, the county superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment for the junior high school. The ANB determined by the county superintendent shall be used for budgeting and foundation program purposes during the ensuing school fiscal year.

Purpose.

Section 203. Section 75-6605. **Opening a junior high school when high school district operates a county high school.** Whenever the trustees of an elementary district and a high school district operating a county high school have formed a joint board of trustees under the provisions of section 75-5928, such joint board of trustees may open a junior high school under the provisions of this section.

Joint board may open junior high school.

Procedure.

When the joint board of trustees resolve to open a junior high school, they shall order an election under the provisions of section 75-6406 to submit a proposition to the electors of the district to approve or disapprove the trustees resolution to open a junior high school. The joint board of trustees shall call and conduct the election in the manner prescribed in this title for school elections and equally share the cost of the election. Any elector qualified to vote under the provisions of section 75-6410 may vote on the proposition. If a majority of the electors voting at the election approve the proposition, the trustees shall apply to the superintendent of public instruction for approval to open a junior high school. If a majority of the electors voting at the election disapprove the proposition, a junior high school shall not be opened by the joint board of trustees.

Election.

Conduct of election.

Elector qualifications.

Application submitted by June 1.

The application to the superintendent of public instruction for the approval to open a junior high school shall be submitted by the first day of june following the election approving the opening of the junior high school. The application shall contain such information as is required under section 75-6603 for an application to open a high school.

Required statements.

Investigation.

The superintendent of public instruction shall investigate the application for the opening of a junior high school and shall approve or disapprove the opening of the junior high school before the fourth Monday of June preceding the first year of intended operation. If the

Decision prior to 4th Monday of June.

opening is approved, the joint board of trustees may open the junior high school.

At any time the trustees of the elementary district and the trustees of the high school district shall cease to form a joint board of trustees under the provisions of section 75-5928, the junior high school shall be closed and the districts shall assume the provision of an educational program for the junior high school pupils of their respective districts.

Termination of joint board.

Closing.

Section 204. Section 75-6606. **Budgeting and cost sharing when junior high school operated by elementary district and high school district operating a county high school.** Whenever the opening of a junior high school is approved for the ensuing school fiscal year under the provisions of section 75-6605, the county superintendent shall estimate the average number belonging (ANB) after investigating the probable enrollment for the junior high school. The ANB determined by the county superintendent and the ANB actually realized in subsequent school fiscal years shall be applied under the provisions of subsection (10) of section 75-6905 to prorate the maximum-general-fund-budget-without-a-voted-levy between the elementary and high school districts. Each district shall adopt its general fund budget on the basis of such prorated amount and shall finance its proportionate share of the cost of operating the junior high school.

Estimate ANB.

Prorated budget.

The cost of operating the junior high school shall be prorated between the elementary district and the high school district on the basis of the ratio that the number of pupils of their district is to the total enrollment of the junior high school.

Basis of ratio.

Section 205. Section 75-6607. **School closure.** When it is in the best interest of the pupils affected, the trustees of any district shall have the power and authority to close any school of the district, except that the closure of a junior high school shall be closed jointly by the trustees of the elementary district and the high school district in which the school is located. Whenever the trustees of a district close a school of the district, they shall provide the pupils of the closed school with transportation and tuition, if required, to other schools in accordance with the provisions of this title.

Trustees authority to close schools.

Transportation and tuition.

Section 206. Section 75-6608. **School isolation.** The

trustees of any district operating an elementary school of less than ten (10) ANB or a high school of less than twenty-five (25) ANB shall apply to have the school classified as an isolated school. The application shall be submitted by the trustees to the county superintendent by the first day of May each year. Such application shall include: (1) the name of each pupil who will attend the school during the ensuing school fiscal year with the distance the pupil resides from the nearest county road or highway; and

Isolated school classification.

May 1.

Application statements.

(2) a description of conditions affecting transportation such as poor roads, mountains, rivers, or other obstacles to travel, the distance the school is from the nearest open school having room and facilities for the pupils of such school, or any other condition that would result in an unusual hardship to the pupils of the school if they were transported to another school; and

(3) any other information prescribed by the superintendent of public instruction.

Submission to budget board before June 15.

Approval or disapproval—basis.

The county superintendent shall submit the applications to the board of county commissioners (budget board) for their consideration on or before the fifteenth (15th) day of June. The budget board shall approve or disapprove the application on the basis of the existence of unusual obstacles to travel or the unusual distance to the nearest open school having room and facilities for the pupils of such school. The budget board also may approve an application because of the existence of other conditions which would result in an unusual hardship to the pupils of such school if they were transported to another school.

Review.

4th Monday in August.

Decision of state superintendent.

When an application is approved because of conditions other than obstacles to travel or the unusual distance to the nearest open school having available room, the county superintendent shall review such application and approve or disapprove it. If the county superintendent approves the isolated classification, he shall send the application indicating his approval and the budget board's approval to the superintendent of public instruction before the fourth Monday of June. The superintendent of public instruction shall approve or disapprove such application for isolated classification.

Section 207. Section 75-6701. **Application of budget system for districts.** The school budgeting procedure and provisions of this title shall apply to elementary, high school and community college districts, and to all funds requiring the adoption of a budget. Each district shall separately propose and adopt a budget in accordance with the requirements of this title.

Budgeting procedures.

Separate budgets.

Section 208. Section 75-6702. **General supervision of school budgeting system.** The superintendent of public instruction shall have general supervision over the school budgeting procedure and provisions prescribed by law and shall have the duty to establish such regulations as are necessary to secure compliance with the school budgeting laws.

General supervision.

Regulations.

Section 209. Section 75-6703. **Board of school budget supervisors.** There shall be a board of school budget supervisors in each county of the state. The board of county commissioners shall constitute such board and in that capacity shall exercise the powers and duties prescribed by law. The clerk of the board of school budget supervisors shall be the county superintendent whose office shall be the office of such board.

County board of school budget supervisors. Composition.

Clerk—county superintendent.

As used in this title, unless the context clearly indicates otherwise, the term "budget board" means the board of school budget supervisors of a county.

"Budget board" defined.

Section 210. Section 75-6704. **School budget form.** The format of the school budget form shall be prescribed by the superintendent of public instruction and shall provide for proper school budgeting procedures in accordance with the budgeting requirements of this title and generally accepted accounting principles. The superintendent of public instruction shall cause a sufficient number of the budget forms to be printed for use by all districts for each school fiscal year.

Budget forms.

Printing.

Each district shall use the budget forms prescribed by the superintendent of public instruction except that a district may, with the approval of the superintendent of public instruction, use a more detailed form.

More detailed form.

Section 211. Section 75-6705. **Initial budget items for completion and estimated budgeting authority.** During the month of March, the county superintendent shall complete the portions of the budget form providing information about the last completed school year and, separate

March budget duties of county superintendent.

from the budget form, estimate the maximum amount to be available for the general fund budget in the ensuing year without an additional levy. By the tenth day of April, the county superintendent shall send to each district two (2) copies of the budget form, the general fund estimate, and any other information or data as may be required by the superintendent of public instruction or that the county superintendent may deem necessary.

April 10 duties.

Upon receipt of the budget forms, the district shall complete those portions of them which require information about the then-current school year.

District completion.

Section 212. Section 75-6706. **Notice of preliminary budget meeting.** During the month of May, the county superintendent shall publish a notice at least one (1) time in the official newspaper of the county stating that the trustees of each district in the county will meet in regular session on the fourth Monday in June to prepare and adopt a preliminary budget for the next ensuing school fiscal year and that any taxpayer in the district may attend such meeting and be heard on such preliminary budget.

May publication of notice of meeting to adopt preliminary budget.

4th Monday in June.

Section 213. Section 75-6707. **Preparation and adoption of preliminary budget by trustees.** The trustees of each district shall meet at their regular place of meeting on the fourth Monday in June to adopt a preliminary budget for the next ensuing school fiscal year. This budget meeting may be continued from day to day but shall not exceed five (5) days in total. Any taxpayer in the district may attend such meeting and be heard in regard to the preliminary budget or any item or amount proposed to be included in such budget. The preliminary budget shall include all funds which require the adoption of a budget and which the trustees wish to utilize during the ensuing year.

Meeting—4th Monday in June.

5 day limitation.

Taxpayer may attend.

The proposed expenditures adopted as the preliminary budget shall be entered on the appropriate portion of the budget form. The amount of the preliminary general fund budget for a district shall not exceed the foundation program of such district except in the manner permitted by the laws of Montana. If any appropriation item of the preliminary budget provides for the payment of wages or salaries to more than one (1) person, the district shall attach to the preliminary budget a separate listing of

Proposed expenditures.

Limitation on amount.

Separate listing.

each position of employment with the budgeted amount of compensation for each position.

After the adoption of the preliminary budget by the trustees, the chairman of the trustees and the clerk of the district shall sign the budget form and it shall constitute the preliminary budget for the district. The trustees shall send both copies of the adopted preliminary budget with all appendages and any other information required by law to the county superintendent on or before the fifth day after the fourth Monday of June.

Chairman and clerk shall sign.

Submission to county superintendent.

Section 214. Section 75-6708. **Preparation of preliminary budget by county superintendent if no budget submitted.** If for any reason the trustees of any district fail to prepare and submit a preliminary budget to the county superintendent before the tenth day of July, the county superintendent shall prepare a preliminary budget for the district in the manner provided by law and shall note on the budget form the specific reasons why he has prepared it. For all purposes thereafter, such preliminary budget shall be considered to have been adopted by the trustees of the district in the regular manner.

Failure of trustees—July 10.

County superintendent shall prepare.

Section 215. Section 75-6709. **Notice of preliminary budget filing and final budget meeting.** Between the tenth and twentieth days of July of each year, the county superintendent shall publish notice one (1) time in the official newspaper of the county stating that the preliminary budgets for all districts in the county for the school fiscal year just beginning, as prepared and adopted by the respective trustees, are on file in his office and that such budgets are open to inspection of all taxpayers. The notice shall also state that the board of school budget supervisors of the county will meet at 10 a.m. on the fourth Monday in July for the purpose of considering and adopting the final budget of each district, that the meeting of such budget board may be continued from day to day until the final adoption of all the districts' budgets, and that any taxpayer in a district may appear at such budget board meeting and be heard for or against any part of the budget of his district.

Between July 10 and 20.

Publication of notice.

Meeting for adoption of final budget.

Section 216. Section 75-6710. **County treasurer's statement of cash balances and bond information.** By the tenth day of July, the county treasurer shall prepare a statement for each district showing the amount of cash on hand for each fund maintained by the district and the

Treasurer's statement of cash on hand for each district—July 10.

amount of the outstanding obligations against each fund at the close of the last completed school fiscal year. The county treasurer shall also include on each district's statement the details on the obligation for bond retirement and interest for the school fiscal year just beginning. The format of the statement on fund cash balances and bond information shall be prescribed by the superintendent of public instruction.

Bond obligations and interest.

Format.

Treasurer's statement for each fund—July 10.

By the tenth day of July, the county treasurer shall prepare a statement for each county school fund supported by county-wide levies, showing the amount of cash on hand at the beginning of the school fiscal year, the receipts and apportionments, and the amount of cash on hand at the end of the school fiscal year, for each county school fund maintained during the immediately preceding school fiscal year. The format of this statement shall be prescribed by the superintendent of public instruction.

Format.

July 10 statements to county superintendent.

On or before the tenth day of July, the county treasurer shall deliver the statements of district and county fund cash balances and the bond information for each district to the county superintendent who shall attach such district statements to the applicable district's preliminary budget.

County assessor's statement—assessed and taxable value of property—second Monday in July.

Section 217. Section 75-6711. **County assessor's of district, cities and towns valuations.** By the second Monday of July, the county assessor of each county shall, at the time of delivering the completed assessment book to the county clerk under the provisions of section 84-505, R.C.M., 1947, also deliver to the county superintendent and to each city or town clerk a statement showing separately for each district and each city or town in his county, the total assessed value and the total taxable value of all property in such districts, cities or towns, as these valuations appear in such completed assessment book.

County clerk's statement—second Monday in August.

The county clerk shall, after the second Monday in August and before or at the time of delivering the assessment book to the county assessor under the provisions of section 84-4006, R.C.M., 1947, prepare a statement showing separately for each district and each city or town in his county, the total assessed value and the total taxable value of all property in such districts, cities, or towns, as these valuations appear in the assessment book after

amendments, corrections, and additions made by the state and county boards of equalization and entered on the assessment book. The county clerk shall immediately deliver a copy of his statement of assessed and taxable values for districts to the county superintendent and a copy of those portions of such statement for each city and town to the appropriate city or town clerk.

Additional statements—joint school districts.

In the case of a joint school district, the county assessor and the county clerk shall, at the time of delivering their respective statements to the county superintendent, send a statement of the assessed value and taxable value of the portion of the joint school district situated in their county to the county superintendents and to the county commissioners of each county in which a part of the joint school district is situated.

Revenue estimates by county superintendent.

Section 218. Section 75-6712. **County superintendent estimates of revenue and supply of other financial and statistical information.** Before the fourth Monday of July, the county superintendent shall prepare estimates of the revenue available to finance each fund included on each district's preliminary budget. The preliminary budget revenue estimates shall be entered by the county superintendent in the appropriate portion of the form. The county superintendent shall also enter any other financial and statistical information which is necessary for the completion of the budget form and which is available prior to the fourth Monday of July.

Final budget meeting—4th Monday in July.

Section 219. Section 75-6713. **Final budget meeting.** On the fourth Monday in July, at the hour of 10 a.m., the budget board of each county shall meet in the office of the county superintendent. The county superintendent, as clerk of the budget board, shall place before the budget board all of the district preliminary budgets submitted to or prepared by the county superintendent, including all information and any attachments required by law. The budget board shall examine and consider the budgets.

Budget board shall adopt final budget —determine tax levies—second Monday in August.

The budget board may continue its meeting from day to day but shall adopt the final budget for each district and determine the amounts to be raised by tax levies for each district not later than the second Monday in August and before the fixing of the tax levies for each district.

Taxpayer may attend.

Any taxpayer in any district may attend any portion of the budget board's meeting and be heard on the budget

of such district or on any item or amount contained in such budget.

Board's authority to adjust.

Section 220. Section 75-6714. **Final budget adjustment procedures.** At the meeting of the budget board, the budget board shall have the power to make any changes or corrections it may deem necessary or proper in any item or amount of the preliminary budget either by eliminating the item or amount, or by increasing or reducing the amount of any item. When it appears to the budget board that the amount proposed to be expended for any item of the preliminary budget is in excess of the amount actually required to be expended for such item, the budget board shall reduce such amount to the amount actually required to be expended and shall enter in its minutes the reasons for such reduction and shall immediately send a copy of such entry in the minutes to the chairman of the trustees of the applicable district.

Trustees shall be heard prior to adjustment.

Whenever the budget board adjusts a district's budget by any amount or eliminates any item, the budget board shall not take final action on such budget and shall afford the trustees of such district an opportunity to be heard

Hearing 1st Monday in August.

on the budget by calling a hearing to be held on the first Monday in August. At such hearing, the budget board shall invoke the applicable school budget adjustment procedure to determine the amount adopted in the final budget. The school budget adjustment procedure shall be: (1) ELEMENTARY

Adjustment procedure. Elementary.

If, at such hearing, the trustees and the budget board are unable to agree on the amount or need for any item of an elementary district budget, the majority vote of all members of the elementary district board of trustees shall finally fix and determine such amount or item and this amount or item shall not be changed by the budget board.

High school.

(2) HIGH SCHOOL

At the hearing on the high school district budget, the chairman of the budget board or a member of that board appointed by him, the chairman of the board of trustees of the high school district or a member of that board appointed by him, and the county superintendent shall constitute a board of review. This board of review shall have the power and it shall be its duty to consider each amount or item adjusted by the budget board and to fix

and determine such amount or item for the final budget. Such amount or item shall not be subject to further review.

Duty to reduce amounts to authorized maximum.

Section 221. Section 75-6715. **General fund budget adjustment when budget exceeds maximum limitation.** If it shall appear to the budget board that a district's preliminary general fund budget exceeds the maximum general fund budget allowed by law, including any additional levy, the budget board shall reduce item amounts of such budget to such an extent that the authorized maximum general fund budget, including any additional levy, shall not be exceeded. In adjusting any item of the preliminary general fund budget, the budget board shall be guided as far as possible by the wishes of the board of trustees. When the district is obligated by contract or the teacher tenure law to employ or retain any person at a specified salary or wage, the budget board shall not reduce any item of the general fund budget for salaries and wages which would reduce such item to less than that required to meet the district's obligations.

Limitations.

Section 222. Section 75-6716. **Adoption and expenditure limitations of final budget.** When the budget board has caused the amount of an item of the budget for a district to be determined and set, it shall enter the amount in the portion of the budget form provided for the reporting of the final budget and upon completion of all the items the chairman and clerk of the budget board shall sign the budget form. The resulting budget shall constitute the final budget and the appropriations for the district for the current school fiscal year. The board of trustees and all officers and employees of the district shall be limited in making expenditures or incurring liabilities to the amount of such appropriations except that transfers from any appropriation item to another appropriation item within a fund's budget may be made as provided by law. Expenditures made, liabilities incurred, or warrants issued in excess of any of the final budget appropriations for any item, as originally determined or as revised by transfer, shall not be a liability of the district and no money of the district shall ever be used to pay the same.

Chairman and clerk shall sign budget form.

Limit on expenditures.

District not liable for excesses.

Section 223. Section 75-6717. **Fixing and levying tax levies by board of county commissioners.** On the second Monday in August when the members of the budget

board meet as the board of county commissioners for the purpose of fixing tax levies, the county superintendent, as clerk of the budget board, shall place before the board of county commissioners the final adopted budgets of all districts of the county and any emergency budget adopted by a district during the previous school fiscal year. It shall be the duty of the board of county commissioners of each county to fix and levy on all the taxable value of all the real and personal property within a district or the county, whichever is applicable, all district and county taxation required to finance, within the limitations provided by law, the final budgets and any emergency budgets of all districts of the county.

Duties of board of county commissioners to levy taxes.

Section 224. Section 75-6718. **Allocation of federal funds in lieu of property taxation.** Federal funds received by a district under the provisions of Title I of Public Law 81-874, or funds designated in lieu of such federal act by the congress of the United States, may be allocated to the various operating budgets of the district by the trustees.

Trustees may allocate federal funds.

Section 225. Section 75-6719. **Completion, filing and delivery of final budgets.** After the final budget of each district has been adopted by the budget board, and the county commissioners have levied the taxes to support such budgets, the county superintendent, as clerk of the budget board, shall complete all the remaining portions of the budget forms and shall file a copy of the final budgets in the office of the budget board. The county superintendent shall also: (1) send the final budget information to the superintendent of public instruction on the forms provided by the superintendent, on or before the first day of September.

Completion and filing of budget forms by September 1.

(2) deliver a copy of the final budget for each district to the county treasurer on or before the first day of September; and

September 1.

(3) send a copy of each district's final budget to the applicable school district on or before the first day of September.

September 1.

Section 226. Section 75-6720. **Designation of county officials for joint district budgeting.** When all of the schools of the joint districts are located in one (1) county, the county superintendent, the budget board, and

Joint districts—duty to perform school budgeting.

the county treasurer of the county where the schools of the district are located shall perform the school budgeting duties for such joint district. When the schools of a joint district are located in more than one (1) county, the superintendent of public instruction shall designate the county officials of one (1) county to perform the school budgeting duties for such joint district.

Designation.

The final budgets of joint districts shall be filed in the office of the county superintendent of each county in which a part of a joint district is located.

Filing.

Section 227. Section 75-6721. **Budgeting procedure for joint districts and establishment of communication procedure.** The trustees of a joint district shall adopt a preliminary budget according to the school budgeting laws and send a copy of such budget to the county superintendent of each county in which a part of the joint district is located; provided that two copies of the budget shall be sent to the county superintendent who is responsible for the performance of the budget duties. The county superintendents receiving the budget of a joint district shall jointly compute the estimated budget revenues and determine the number of mills which need be levied in the joint district for each fund for which a levy is to be made. The superintendent of public instruction shall establish a communication procedure to facilitate the joint estimation of revenues and determination of the tax levies.

Trustees of joint district—adoption of preliminary budget.

Communication procedure.

After determining, in accordance with law, the number of mills which need be levied for each fund included on the final budget of the joint district, a joint statement of the required mill levies shall be prepared and signed by the county superintendents involved in the computation. A copy of the statement shall be delivered to the board of county commissioners of each county in which a part of the joint district is located not later than the Friday immediately preceding the second Monday in August.

Joint statement.

Friday preceding second Monday in August.

Section 228. Section 75-6722. **Fixing and levying tax levies for joint districts.** At the time of fixing levies for county and school purposes on the second Monday in August, the board of county commissioners of each county in which a part of a joint district is located shall fix and levy taxes on that portion of the joint district located

Each county shall levy taxes.

in such board's county, at the number of mills for each such levy recommended by the joint statement of the county superintendents.

All required amounts included.

The board of county commissioners shall include in the amounts to be raised by the county levies for schools, all the amounts required for the final budget of each part of a joint district located in the county, in accordance with the recommendations of the county superintendent.

"Emergency" for school budgeting defined.

Section 229. Section 75-6723. **Definition of emergency for budgeting purposes.** As used in this title, unless the context clearly indicates otherwise, the term "emergency" for the purpose of school budgeting shall be: (1) an increase in the enrollment of a district over the immediately preceding school fiscal year which is beyond what could reasonably have been anticipated at the time of the adoption of the budget for the then-current school fiscal year, and that because of such enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

Effect of increased enrollment.

Destruction of property.

(2) the destruction or impairment of any school property necessary to the maintenance of the school by fire, flood, storm, riot, insurrection or any act of God to such an extent as to render such school property unfit for its present school use;

Judgment for damages.

(3) a judgment for damages against the district rendered by a court after the adoption of the budget for the current year;

Legislation.

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district; or

Other reasons.

(5) any other reason of similar consequences that has been approved by the superintendent of public instruction upon petition by the trustees of the district.

Adoption—emergency budgets.

Section 230. Section 75-6724. **Authorization for emergency budget adoption.** Emergency budgets may be adopted at any time of the school fiscal year except that emergency budgets required by an enrollment increase that could not have been anticipated at the time of the

adoption of the regular budget as provided in subsection (1) of section 75-6723 may not be adopted until after the last day of December.

Resolution.

Section 231. Section 75-6725. **Resolution for emergency budget and, under certain circumstances, petition of superintendent of public instruction.** Whenever the trustees of any district shall deem that an emergency exists, they may adopt a resolution proclaiming such emergency by a unanimous vote of all members present at any meeting for which each trustee has been given reasonable notice of the time and place of holding such meeting. The emergency resolution shall also state the facts constituting the emergency, the estimated amount of money required to meet the emergency, the funds affected by the emergency, and the time and place when the board will meet for the purpose of considering and adopting an emergency budget for such funds for the current school fiscal year.

Required statements.

Petition.

Required statements.

If the trustees shall deem that an emergency exists for any reason other than the conditions specified in subsections (1), (2), (3), or (4) of section 75-6723, they shall petition the superintendent of public instruction for permission to adopt a resolution of emergency. Such petition shall set forth in writing the reasons for the request, the district funds affected by the emergency, the estimated amount of money required to meet such emergency for each affected fund, the anticipated sources of financing for the emergency expenditures, and such other information as may be required by the superintendent of public instruction. The petition shall be signed by each trustee.

Approval by state superintendent.

Effect of approval.

The superintendent of public instruction shall promptly approve or disapprove the petition requesting approval to adopt a resolution of emergency. If the petition is approved, the trustees may then adopt a resolution of emergency, and may subsequently take all other steps required for the adoption of an emergency budget. Approval of the petition by the superintendent of public instruction shall merely authorize the board of trustees to initiate emergency budget proceedings by resolution and shall not relieve the trustees of the necessity of complying with the requirements of the school emergency budgeting laws. Approval of the petition shall

not be construed as approval of any subsequent application for increased state aid on account of such emergency.

Publication of emergency resolution.

Posting.

Distribution.

Not less than one week.

Section 232. Section 75-6726. **Notice of emergency budget resolution.** A copy of the emergency resolution shall be published one (1) time in a newspaper that will give notice to the largest number of people of the district as determined by the trustees and a copy of the resolution shall be posted at each schoolhouse of the district. A copy of the emergency resolution shall also be delivered to the county superintendent and to the county clerk, as the clerk of the board of county commissioners of the county. The publication, posting, and delivery of the resolution shall be done not less than one (1) week before the day specified in the resolution for the consideration and adoption of an emergency budget.

Public meeting.

Preliminary emergency budget.

Section 233. Section 75-6727. **Emergency budget limitation, preparation and adoption procedures.** The meeting of the trustees to consider and adopt an emergency budget shall be open to the public and any taxpayer in the district shall have the right to appear and be heard. If at such a meeting a majority of the trustees present shall find that an emergency exists, the trustees may make and adopt a preliminary emergency budget on the regular budget form setting forth fully the facts constituting the emergency. In adopting the preliminary emergency budget, the trustees may budget for any fund which was included on the final budget of the district for the current school fiscal year. The budget shall be itemized to show the amount appropriated for each item as required on the budget form.

Determination of maximum amount.

When the emergency is due to any increase of enrollment, the maximum amount of the emergency budget for all funds shall be determined in the following manner: (1) Determine the total amount in the final budget for the current school fiscal year of all funds affected by the emergency, less any amounts appropriated as capital outlay and any amount appropriated for addition to the cash reserve.

(2) Divide the amount determined in subsection (1) by the number of pupils originally enrolled in such district during the immediately preceding school fiscal year.

Cost per pupil.

The resulting cost per pupil shall constitute the maximum permissible per-pupil expenditure in the emergency budget.

Enrollment increase.

(3) Determine the enrollment increase of the current school fiscal year by subtracting the number of pupils originally enrolled during the immediately preceding school fiscal year from the number of pupils enrolled for the current school fiscal year. The result shall be the enrollment increase for the current school fiscal year.

Maximum limitation.

(4) Multiply the cost per pupil determined in subsection (2) by the enrollment increase determined in subsection (3). The result shall be the maximum limitation on an emergency budget for emergencies due to an increase of enrollment.

Other limitations.

In the event of any other type of emergency, the budget shall be limited by those expenditures deemed by the trustees to be reasonable and necessary to finance the stated conditions of the emergency, and the preliminary emergency budget shall be accompanied with the details of the proposed expenditures.

Transportation contract.

Whenever the trustees adopt a preliminary emergency budget for the transportation fund, the trustees shall attach to such budget a copy of each transportation contract which is connected with the emergency and which has been prepared and executed in accordance with the school transportation contract laws.

Majority vote.

Signing.

Distribution.

Budget board shall consider and adopt final emergency budget.

Signing.

After the trustees have adopted the preliminary emergency budget by a majority vote of the trustees, it shall be signed by the chairman of the trustees and the clerk of the district and two (2) copies of it shall be sent to the county superintendent as clerk of the budget board. The county superintendent shall place such preliminary emergency budget before the budget board at the next regular meeting of the board of county commissioners. The budget board shall consider and adopt the final emergency budget and shall have the power to make any change in the preliminary emergency budget *that it may deem necessary and proper. After* the budget board has adopted the final emergency budget, the chairman and the clerk of the budget board shall sign such budget.

Section 234. Section 75-6728. **Filing and delivery of adopted emergency budget.** After the emergency budget has been approved by the budget board, the final emergency budget shall be filed in the office of the county superintendent, as clerk of the budget board, and the county superintendent shall immediately send a copy of such budget with a notation of the adoption date and any changes made by the budget board to the applicable district, county treasurer, and the superintendent of public instruction.

Filing.

Distribution.

Section 235. Section 75-6729. **State financial aid for emergency budgets.** Whenever a final emergency budget has been adopted for the general fund or the transportation fund to finance the cost of an emergency due to an increased enrollment or any other reason approved by the superintendent of public instruction under the provisions of section 75-6725, the trustees may apply to the superintendent of public instruction for an increased payment from the state public school equalization aid account for the foundation program or for state transportation reimbursement, or both. The superintendent of public instruction shall publish rules and regulations for such application. The superintendent of public instruction shall approve or disapprove each application for increased state aid made in accordance with this section. When the superintendent of public instruction approves an application, he shall determine the additional amount of state aid from the state public school equalization aid account or the state transportation reimbursement which will be made available to the applicant district because of the emergency caused by an increase in enrollment. The superintendent of public instruction shall notify the applicant district of his approval or disapproval and, in the event of approval, the amount of additional state aid that will be made available for the general fund or the transportation fund. The superintendent of public instruction shall disburse such emergency state aid to the eligible district at the time the next regular state aid payment is made.

Trustees may apply to state superintendent for increased state aid.

Rules.

Duties.

Determination of amounts.

Notice.

Disbursement of aid.

Section 236. Section 75-6730. **Determination of available financing and fixing and levying property taxation for an emergency budget.** After the last day of the school fiscal year for which an emergency budget has been adopted, the county treasurer shall determine the amount of the

Amount of cash balance.

cash balance that is available to finance the emergency budget's outstanding warrants or registered warrants for each fund included on the emergency budget. The available amount of the cash balance of each fund shall be determined by deducting from the county treasurer's year-end cash balance for such fund, the outstanding or registered warrants issued under the regularly adopted final budget for such fund and the cash reserve for such fund which the trustees have established, within the limitations of law, for the following school fiscal year.

Determination.

The county treasurer shall prepare and deliver a statement on the financial status of each fund included on an emergency budget for a district having such a budget during the preceding year to the board of county commissioners by the first Monday in August. Such statement for each district emergency budget shall include: (1) the total amount of the issued emergency warrants that are outstanding or registered against each fund of the district;

County treasurer's statement.

First Monday in August.

Mandatory information.

(2) the amount of the cash balance in each fund included on the emergency budget which is available to finance such outstanding or registered warrants; and

(3) after consideration of the available money in subsection (2), the additional amount of money which is required to finance the outstanding warrants or registered warrants and intersst on such warrants and which must be raised by a tax levy.

For each fund of the emergency budget of each district requiring a tax levy as established by subsection (3) of the county treasurer's statement, the board of county commissioners shall, at the time all other district and county taxes are fixed and levied, levy a tax on the taxable property of each applicable district that will raise sufficient financing to pay the amount established by the county treasurer.

Duty of board to levy.

Section 237. Section 75-6801. **Fund definitions.** As used in this title, unless the context clearly indicates otherwise:

Definitions.

A "fund" means a separate detailed account of receipts and expenditures for a specific purpose as authorized by law. Funds are classified as follows: (1) A "budgeted fund" means any fund for which a budget must be adopted in order to expend any monies from such fund. The general fund, tranportation fund, bus depreciation reserve

"Fund."

fund, elementary tuition fund, retirement fund, debt service fund, leased facilities fund, building reserve fund, adult education fund, non-operating fund, post-secondary vocational-technical center fund and any other funds so designated by the legislature shall be budgeted funds.

"Non-budgeted fund."

(2) A "non-budgeted fund" means any fund for which a budget is not required in order to expend any monies on deposit in such fund. The school food services fund, miscellaneous federal programs fund, building fund, housing and dormitory fund, traffic education fund, interlocal cooperative fund and any other funds so designated by the legislature shall be non-budgeted funds.

School financial administration.

Section 238. Section 75-6802. **Application of law and superintendent of public instruction supervision.** The school financial administration provisions of this title shall apply to all monies of any district or any community college district, excepting the extra-curricular monies realized from pupil activities. The superintendent of public instruction shall have general supervision over the school financial administration provisions as prescribed by law and shall have the duty to establish such rules and regulations as are necessary to secure compliance with the law.

General supervision.

Joint district—county officials designated.

Section 239. Section 75-6803. **County officials for financial administration when joint district.** When all of the schools of the joint district are located in one (1) county, the school financial administration duties assigned to county officials shall be performed by those officials of the county wherein the schools of the district are located. When the schools of a joint district are located in more than one (1) county, the superintendent of public instruction shall designate the county officials of the same county to perform such duties for the joint district as were designated to perform the budgeting duties for the joint district under the provisions of section 75-6720.

Custodian of monies.

The designated county treasurer shall be the custodian of all joint district monies and shall perform all other duties of the county treasurer for the joint district. The superintendent of public instruction shall disburse all monies for a joint district to such county treasurer.

Annual financial report—September 1.

Section 240. Section 75-6804. **Annual financial report of county superintendent.** No later than the first day of September of each school fiscal year, the county superintendent shall report to the superintendent of public instruction the financial activity during the preceding school fiscal year of each district of the county in accordance with the reporting requirements prescribed by the superintendent of public instruction. Such reports shall be prepared on forms provided by the superintendent of public instruction.

Forms.

Duties of county treasurer.

Section 241. Section 75-6805. **Duties of county treasurer.** The county treasurer of each county shall: (1) receive and hold all school monies subject to apportionment, and keep a separate accounting of their apportionments to the several districts which are entitled to a portion of such monies according to the apportionments ordered by the county superintendent. A separate accounting shall be maintained for each county fund supported by a county-wide levy for a specific, authorized purpose, including:

Separate accounting for each fund.

(a) the basic county tax in support of the elementary foundation programs,

(b) the basic special tax for high schools in support of the high school foundation programs,

(c) the county tax in support of the county's high school transportation obligation,

(d) the county tax in support of the high school obligations to the retirement systems of the State of Montana,

(e) any additional county tax required by law to provide for deficiency financing of the elementary foundation programs,

(f) any additional county tax required by law to provide for deficiency financing of the high school foundation programs,

(g) the county tax for a post-secondary vocational-technical center when levied by the board of county commissioners, and

(h) any other county tax for schools which may be authorized by law and levied by the county commissioners;

Notice and apportionment.

(2) whenever requested, notify the county superintendent of the amount of county school monies on deposit in each of the funds enumerated in subsection (1) of this section and the amount of any other school monies subject to apportionment, and apportion such county and other school monies to the districts in accordance with the apportionment ordered by the county superintendent;

Separate accountings.

(3) keep a separate, detailed accounting of the expenditures by budget appropriation item within each budgeted fund included on the final budget of each district;

Separate accountings.

(4) keep a separate, detailed accounting of the receipts, expenditures, and cash balances for each budgeted fund included on the final budget of each district and for each non-budgeted fund established by each district;

Payment of warrants.

(5) except as otherwise limited by law, pay all warrants properly drawn on the county or district school monies and properly endorsed by their holders;

Receipt of revenue.

(6) receive all revenue collected by and for each district and deposit these receipts in the fund designated by law, or by the district if no fund is designated by law. Interest and penalties on delinquent school taxes shall be credited to the same fund and district for which the original taxes were levied;

Distribution of revenues.

(7) send all revenues received for a joint district, part of which is situated in his county, to the county treasurer designated as the custodian of such revenues, no later than

December 15.

the fifteenth day of December of each year and every

Every three months.

three (3) months thereafter until the end of the school fiscal year;

Registration and redemption of warrants.

(8) register district warrants drawn on a budgeted fund in accordance with sections 16-2604, R.C.M., 1947, when there are insufficient monies available in such budgeted fund to make payment of such warrant. Redemption of registered warrants shall be made in accordance with section 16-2605, 16-2602, and 16-2607, R.C.M., 1947;

Investments.

(9) invest the monies of any district as directed by the trustees of the district but in accordance with subsection (2) of section 16-2050 or subsection (8) of section 16-2618, R.C.M., 1947, whichever is applicable; and

Quarterly reports.

(10) give to the trustees of each district, at least quarterly, an itemized report for each fund maintained by the district showing the paid warrants, outstanding warrants, registered warrants, amount and types of revenue received, and the cash balance.

Authority of trustees.

Section 242. Section 75-6806. **Duties of trustees.** The trustees of each district shall have the sole power and authority to transact all fiscal business and execute all contracts in the name of such district. No person, other than

the trustees, acting as a governing board, shall have the authority to expend monies of the district. In conducting the fiscal business of the district, the trustees shall: (1) cause the keeping of an accurate, detailed accounting of all receipts and expenditures of school monies for each fund maintained by the district in accordance with rules and regulations prescribed by the superintendent of public instruction. The record of such accounting shall be open to public inspection at any meeting of the trustees;

Duties of trustees.

Accurate accounting.

(2) excepting payments under employee contracts, authorize all expenditures of district monies by the written approval of claims for such expenditures, and cause warrants to be issued for the payment of approved claims and payments under employee contracts;

Expenditures.

(3) have the authority to issue warrants on any budgeted fund in anticipation of budgeted revenues, except that such expenditures shall not exceed the amount budgeted for such fund;

Warrants.

(4) invest any monies of the district in accordance with subsection (2) of section 16-2050 or subsection (8) of section 16-2618, R.C.M., 1947, whichever is applicable, whenever in the judgment of the trustees such investment would be advantageous to the district;

Investments.

(5) report annually to the county superintendent not later than the first day of August, the financial activities of each fund maintained by the district during the last completed school fiscal year on the forms prescribed and furnished by the superintendent of public instruction. Annual fiscal reports for joint school districts shall be submitted to the county superintendent of each county in which part of the joint district is situated. Any elementary district that fails to submit the annual report by the time required shall not be entitled to receive any apportionment of the state interest and income monies and such forfeited monies shall be apportioned to the other elementary districts of the county;

Annual fiscal report —August 1.

(6) whenever requested, report any other fiscal activities to the county superintendent, superintendent of public instruction, or board of education;

Other reports.

(7) cause the accounting records of the district to be audited annually as required by law; and

Annual audit.

Other fiscal duties.

(8) perform, in the manner permitted by law, such other fiscal duties that are in the best interests of the district.

Annual audit of accounting records.

Section 243. Section 75-6807. **Examination of district accounting records.** The accounting records of all first- and second-class district and each third-class district maintaining a high school shall be audited annually by the state examiner in accordance with section 82-1008, R.C.M., 1947.

Auditing official designated.

Annually and at such other times as directed by the board of county commissioners or trustees, the county auditor, or the county treasurer if there is no county auditor, shall audit the accounting records of each third-class district that does not maintain a high school. Such district shall deliver all accounting records to the auditing

July 15.

county official no later than the fifteenth day of July for the audit of the financial activity of the last completed school fiscal year. The auditing county official shall examine the accounting records, prepare an audit report

Audit report.

August 15.

and shall: (1) return the accounting records to the district no later than the fifteenth day of August;

Distribution.

(2) send a copy of the audit report to the chairman of the trustees; and

Filing.

(3) file copies of the audit report with the county superintendent and the county clerk and recorder.

Conflict of interest unlawful.

Section 244. Section 75-6808. **Pecuniary interest, letting contracts and calling for bids, under certain circumstances.** It shall be unlawful for any trustee to have any pecuniary interest, either directly or indirectly, in the erection of any school building, or for warming, ventilating, furnishing, or repairing the same, or be in any manner connected with the furnishing of supplies for the maintenance and operation of the schools.

Mandatory advertising for bids.

The trustees of any district shall not let any contract for building, furnishing, repairing or other work for the benefit of the district, or purchasing supplies for the district, without first advertising in a newspaper that will give notice to the largest number of people of the district as determined by the trustees for at least two (2) weeks, calling for bids to perform such work or to furnish such

Exception.

supplies, except: (1) the trustees of a third-class district only maintaining elementary schools with fewer than

three (3) rooms may contract for such work or supplies without advertising and without bids, when the amount involved is less than eight hundred dollars ($800); $800.00.

Exception.

(2) the trustees of a third-class district, other than those described in subsection (1), may contract for such work or supplies, without advertising and without bids, when the amount involved is less than fifteen hundred dollars ($1,500); and $1,500.00.

Exception.

(3) the trustees of a second-class district or a first-class district may contract for such work or supplies, without advertising and without bids, when the amount involved is less than two thousand five hundred dollars ($2,500). $2,500.00.

Award to lowest responsible bidder—right to reject.

In all cases where bidding is required, the trustees shall award the contract to the lowest responsible bidder except that the trustees shall have the right to reject any or all bids.

Applies to community college districts.

With regard to contracting for work or supplies, the board of trustees of a community college district shall be subject to the provisions of section 75-8118.

Duties of county treasurer—entry of appropriations.

Section 245. Section 75-6809. **Entering appropriations on accounting records of county treasurer.** When the county treasurer receives the final budgets of the districts from the county superintendent, he shall open a fund for each budgeted fund included on the final budget of each district by entering the amount appropriated for each item on his accounting record.

Emergency increases.

Whenever the county treasurer receives a final emergency budget for a district from the county superintendent, he shall increase the item appropriations of the regularly adopted final budget by the amount of the emergency budget appropriations for each item of each budgeted fund included on the final emergency budget.

Warrants in triplicate.

Section 246. Section 75-6810. **Procedure for issuance of warrants.** The trustees of each district shall issue all warrants in triplicate and the warrants shall identify:

Identifications.

(1) the budgeted fund or non-budgeted fund on which the warrant is drawn;

(2) the appropriation item of the budgeted fund or the type of expenditure for a non-budgeted fund on which the warrant is drawn; and

(3) the warrant as an emergency warrant, if it is drawn on an emergency budget.

Countersignatures.

Any warrant issued by a district shall be countersigned by the chairman of the trustees and the clerk of the district before the warrant shall be negotiable. Facsimile signatures may be used in accordance with the provisions of chapter 13 of title 59, R.C.M., 1947, provided that the facsimile signature device shall not be available to the other countersigner of the warrant.

Distribution of warrants.

The original copy of the warrant shall be delivered to the payee; the duplicate shall be sent immediately to the county treasurer; and the triplicate shall be retained by the district for accounting record purposes. The duplicate and triplicate copies shall be identified on the face of the warrant as "Not Negotiable — Copy of Original."

Recording.

Section 247. Section 75-6811. **Recording and payment of warrants by county treasurer.** Immediately after receiving a duplicate warrant from a district, the county treasurer shall enter the amount and number of such warrant on his accounting records under the fund and appropriation item identified on such warrant. The recording of the warrants shall allow for the computation of the unexpended appropriation amount of appropriation items of a budgeted fund from the accounting records.

Notice of probable over expenditure.

Whenever it appears to the county treasurer that an appropriation item of a budgeted fund is so nearly exhausted that the issuance of another warrant will cause the overexpenditure of such appropriation item, the county treasurer shall immediately notify the appropriate district of the expended condition of the appropriation item and the district shall not issue another warrant against such appropriation item until its budgeted amount has been increased.

Notice of overdraft —effect of failure to correct.

After receiving a duplicate warrant which will exceed the unexpended balance of an original or revised amount of an appropriation item of a budgeted fund, the county treasurer shall immediately notify the district of such overdraft. If the district has not corrected the overdraft of an appropriation item before the presentation of the original warrant for payment, the county treasurer shall

Endorsement.

refuse to pay or register such warrant, and shall endorse across the face of such warrant "Payment and Registration Refused, Insufficient Appropriation" and return the

warrant to the person presenting it for payment of registration.

Effect of probable over expenditure.

Endorsement.

Notice.

Whenever a warrant will overexpend the cash balance of a non-budgeted fund, the county treasurer shall refuse to pay or register such warrant, and shall endorse across the face of such warrant "Payment and Registration Refused, Insufficient Funds" and return the warrant to the person presenting it for payment. The county treasurer shall immediately notify the district of such refusal to pay or register the warrant drawn on a non-budgeted fund.

Trustees may transfer excess amounts.

Section 248. Section 75-6812. **Transfer among appropriation items of a fund.** Whenever it appears to the trustees of any district that the appropriated amount of any item of a budgeted fund of the final budget or the emergency budget is in excess of the amount actually required during the school fiscal year for such appropriation item, the trustees may transfer any or all of the excess appropriation amount to any other appropriation item of the same budgeted fund.

Limitations.

Such transfers shall not be made between different funds of the same district or between similar funds of different districts except as specifically provided by this title.

Notice of transfers.

The trustees shall immediately notify the county treasurer in writing of any transfer between appropriation items and the county treasurer shall enter such transfer on his accounting records.

Entry.

Lapsed appropriations.

Section 249. Section 75-6813. **Lapse of budgeted appropriations and provision for unpaid claims.** All appropriations for a budgeted fund in the regular or emergency budget for a given school fiscal year shall lapse on the last day of such school fiscal year except the appropriations for uncompleted improvements in progress of construction.

Effect on claims.

Any lawful claim presented to the district for payment under a lapsed appropriation shall be an obligation of the budget for the next ensuing school fiscal year.

Expenditure limitation defined.

Section 250. Section 75-6814. **Expenditure limitation and cash retention of non-budgeted fund.** The expenditure limitation, at any time during the school fiscal year, for a non-budgeted fund shall be the amount of cash balance of such non-budgeted fund.

Cash retention.

The cash balance of a non-budgeted fund shall remain to the credit of such

non-budgeted fund from year to year unless a transfer is specifically authorized by this title.

Uniform system of free public schools.

State aid.

Section 251. Section 75-6901. **Purpose and definition of foundation program and general fund.** A uniform system of free public schools, sufficient for the education of and open to all school age children of the state shall be established and maintained throughout the State of Montana. The state shall aid in the support of its several school districts on the basis of their financial need as measured by the foundation program and in the manner established in this title.

Purpose of general fund.

The principal budgetary vehicle for achieving the minimum financing as established by the foundation program shall be the general fund of the district. The purpose of the general fund shall be to finance those general maintenance and operational costs of a district not financed by other funds established for special purposes in this title.

Limitation on amount.

Financing of general fund.

The amount of the general fund budget for each school fiscal year shall not exceed the financing limitations established by this title but shall be no less than the amount established by law as the foundation program. The general fund budget shall be financed by the foundation program revenues and may be supplemented by the permissive levy and additional voted levies, in the manner provided by law.

"Average number belonging" or "ANB" defined.

Computation.

Attendance.

Absence of pupil.

10th day of absence.

Section 252. Section 75-6902. **Definition and calculation of average number belonging (ANB).** The term "average number belonging" or "ANB" shall mean the average number of regularly enrolled, full-time pupils attending the public schools of a district. Average number belonging shall be computed by determining the total of the aggregate days of attendance by regularly enrolled, full-time pupils during the current school fiscal year plus the aggregate days of absence by regularly enrolled, full-time pupils during the current school fiscal year, and by dividing such total by one hundred eighty (180). Attendance for a part of a morning session or a part of an afternoon session by a pupil shall be counted as attendance for one-half (½) day. When any pupil has been absent, with or without excuse, for more than ten (10) consecutive school days, including pupil instruction related days, his absence after the tenth (10th) day of absence shall not be included in the aggregate days of absence and his enrollment in the school shall not be considered in the calculation of the average number belonging until he resumes attendance at school.

Calculation for each school.

More than one school.

The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district shall be calculated, individually, for each school except that when: (1) more than one school of a district, other than a junior high school in an elementary district which has been approved and accredited as a junior high school, is located within the incorporated limits of a city or town, the average number belonging of such schools shall be based on the aggregate of all the regularly enrolled, full-time pupils attending such schools located within the incorporated limits of a city or town;

Junior high school.

(2) a junior high school which has been approved and accredited as a junior high school is located within the incorporated limits of a city or town in which a high school is located, all of the regularly enrolled, full-time pupils of the junior high school shall be considered as high school district pupils for the purposes of calculating the average number belonging of the high schools located within the incorporated limits of such city or town; or

Non-accredited school.

(3) a school has not been accredited by the board of education, the regularly enrolled, full-time pupils attending the non-accredited school shall not be eligible for average number belonging calculation purposes, nor will an average number belonging for the non-accredited school be used in determining the foundation program for such district.

Kindergarten pupils.

Regularly enrolled, full-time pupils who have reached the age of six (6) years and who are attending a kindergarten program of an elementary district established under the provisions of section 75-7507 may be included in the calculation of the average number belonging of each school conducting a kindergarten program.

Increase of ANB.

Elementary school.

Section 253. Section 75-6903. **Circumstances under which the regular average number belonging may be increased.** The average number belonging of a school for a given school fiscal year, calculated in accordance with the ANB formula prescribed in section 75-6902, may be increased when: (1) the opening of a new elementary school or the reopening of an elementary school has been

approved in accordance with section 75-6602. The average number belonging for such school shall be established by the county superintendent and approved, disapproved or adjusted by the superintendent of public instruction;

High school.

(2) the opening or reopening of a high school or a branch of the county high school has been approved in accordance with sections 75-6603, 75-6604 or 75-6605. The average number belonging for such high school shall be established by the county superintendent's estimate, after an investigation of the probable number of pupils that will attend such high school;

Closing of schools.

(3) a district anticipates an increase in the average number belonging due to the closing of any private or public school in the district or a neighboring district. The estimated increase in average number belonging shall be established by the trustees and the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction no later than the fourth Monday in June;

4th Monday in June.

Special education programs.

(4) the district is conducting, or will conduct during the ensuing school fiscal year, a special education class or program. The authorized increase in the average number belonging is prescribed by section 75-7813 and shall be available only when the operation of such special education class or program has been approved by the superintendent of public instruction in accordance with the special education law. In order to obtain the benefit of this increased average number belonging, a school shall not include the pupils attending a full-time special education class or program in the regular calculation of the average number belonging; or

Enrollment increase.

(5) a district anticipates an unusual enrollment increase in the ensuing school fiscal year. The increase in average number belonging shall be based on estimates of increased enrollment approved by the superintendent of public instruction and shall be computed in the manner prescribed by section 75-6904.

Section 254. Section 75-6904. **Procedures for determining eligibility and amount of increased average number belonging due to unusual enrollment increase.** A district which anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in subsection (5) of section 75-6903, may increase its foun-

District may increase foundation program.

dation program for the ensuing school fiscal year in accordance with the following provisions: (1) To determine if a district is eligible for an increased foundation program due to an unusual enrollment increase, the average number belonging used for the establishment of the foundation program for the current year and for each year of the immediately preceding three (3) years shall be used to calculate the percentage increase or decrease in average number belonging for the current year's foundation program over the immediately preceding year, and similarly calculate the percentage increase or decrease in average number belonging for each of the two preceding years. The three (3) annual percentage increases or decreases shall be averaged to obtain the average annual percentage increase or decrease in average number belonging. The district shall be eligible for the unusual enrollment increase if the average annual increase is not less than three per cent (3%).

Determination of eligibility.

Not less than 3%.

(2) When a district is eligible under subsection (1), the district shall estimate the current year's average number belonging by totaling the aggregate days of attendance and aggregate days of absence realized in the district through April 30 and dividing such total by one hundred eighty (180). The resulting average number belonging shall be increased by the ratio that the total number of planned school days in the current school fiscal year bears to the number of school days completed through April 30.

District estimate computation.

(3) Prior to May 10, the district shall estimate the probable average number belonging to be realized during the ensuing school fiscal year, based on as much factual information as may be available to the district.

Prior to May 10—district estimate.

(4) No later than May 10, the district shall submit its application for an unusual enrollment increase to the board of school budget supervisors (budget board). Such application shall include: (a) the computation of the average annual percentage increase in average number belonging as provided in subsection (1) above;

May 10—application.

Mandatory statements.

(b) the estimate of the current school fiscal year's average number belonging, as provided in subsection (2) above;

(c) the estimated average number belonging for the ensuing school fiscal year, including the factual informa-

tion on which the estimate is based, as provided in subsection (3) above; and

(d) any other information or data that may be requested by the budget board.

Board review.

(5) The budget board shall review the application to determine if the district is eligible for an increase in its foundation program as provided in subsection (1) above and to determine if the estimate of the anticipated increase in average number belonging is substantiated. The budget board may then accept, reject, or adjust the district's estimate of the ensuing year's average number belonging. After approving an estimate, the budget board shall:

Decision.

Duties if approved.

(a) determine the percentage increase which the estimated average number belonging for the ensuing school fiscal year is over the estimated average number belonging for the current school fiscal year as provided for in subsection (2) above; and

(b) approve an increase of the average number belonging used to establish the ensuing year's foundation program in accordance with subsection (7) if the increase in subsection (5) (a) above is at least twice the average annual percentage increase as provided in subsection (1) above.

(6) If the budget board approves the application for an unusual enrollment increase, it shall send the application to the superintendent of public instruction together with any other information or data requested by the superintendent of public instruction on or before May 25. The superintendent of public instruction shall immediately review all the factors of the application and the approval of the budget board, and shall approve or disapprove the application or adjust the estimated average number belonging for the ensuing school fiscal year. The superintendent of public instruction shall notify the district of his decision by the fourth Monday in June.

Review by state superintendent.

Decision.

Notice by 4th Monday in June.

(7) Whenever an unusual enrollment increase is approved by the superintendent of public instruction, the increase of the average number belonging used to establish the foundation program for the ensuing school fiscal year shall be computed as follows:

Computation of increase.

(a) after the actual average number belonging for the current school fiscal year has been computed, the normal average number belonging increase is determined by applying the annual percentage increase, as computed in subsection (1) above, to the actual average number belonging for the current school fiscal year;

(b) subtract the actual average number belonging for the current school fiscal year from the approved estimated average number belonging for the ensuing school fiscal year; and

(c) the difference between the amount determined in subsection (7) (b) above and the amount determined in subsection (7) (a) above shall be the maximum allowable increase added to the actual average number belonging for the current school fiscal year for the purpose of establishing the ensuing year's foundation program.

Section 255. Section 75-6905. **Maximum-general-fund-budget-without-a-valid-levy schedules for elementary and high schools.** The total amount of the general fund budget of any district shall not be greater than the general fund budget amount specified in the following schedules, except when a district has adopted an emergency general fund budget under the provisions of section 75-6727 or when a district has voted an additional levy under the provisions of section 75-6923.

Limitations on amount of district general fund budget.

Exceptions.

Elementary Schools

(1) For each elementary school having an ANB of nine (9) or fewer pupils, the maximum shall be seventy-two hundred forty-eight dollars ($7,248), if said school is approved as an isolated school.

Elementary school maximums. $7,248.

(2) For each elementary school with an ANB of ten (10) pupils, but less than eighteen (18) pupils, the maximum shall be seventy-two hundred forty-eight dollars ($7,248) plus two hundred fourteen dollars ($214) per pupil on the basis of the average number belonging over nine (9).

$7,248 plus $214 per pupil.

(3) For each elementary school with an ANB of eighteen (18) pupils and employing one (1) teacher, the maximum shall be ninety-one hundred seventy dollars ($9,170) plus eighty-five dollars ($85) per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB over twenty-five (25).

$9,170 plus $85 per pupil.

(4) For each elementary school with an ANB of eighteen (18) pupils and employing two (2) full-time teachers, the maximum shall be sixteen thousand four hundred seventy dollars ($16,470) plus eighty-five dollars ($85) per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB over fifty (50).

$16,470 plus $85 per pupil.

ANB in excess of 40—maximums.

(5) For each elementary school having an ANB in excess of forty (40) the maximum on the basis of the total pupils (ANB) in the district for elementary pupils will be as follows:

(a) For each elementary school having an ANB of more than forty (40) and employing a minimum of three (3) teachers, the maximum of five hundred eighty dollars and twenty cents ($580.20) per pupil shall be decreased at the rate of forty-three cents ($.43) for each additional pupil over forty (40) until the total number (ANB) shall have reached a total of one hundred (100) pupils.

$580.20 per pupil—decrease 43 cents.

(b) For each elementary school having an ANB of more than one hundred (100) pupils, the maximum of five hundred fifty-four dollars ($554) per pupil shall be decreased at the rate of fifty-one cents ($.51) for each additional pupil over one hundred (100) until the ANB shall have reached three hundred (300) pupils.

$554 per pupil—decrease 51 cents.

(c) For each elementary school having an ANB of more than three hundred (300) pupils, the maximum shall not exceed four hundred fifty-one dollars and thirty-five cents ($451.35) per pupil.

$451.35 per pupil.

Basis of computation.

(6) The maximum per pupil, for all pupils (ANB) and for all elementary schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB. All elementary schools operated within the incorporated limits of a city or town shall be treated as one school for the purpose of this schedule.

High school maximums.

High Schools

$35,440.

(7) For each high school having an ANB of twenty-four (24) or fewer pupils, the maximum shall be thirty-five thousand four hundred forty dollars ($35,440).

$1,476.35 per pupil —decrease $9.75.

(8) For each high school having an ANB of more than twenty-four (24) pupils, the maximum fourteen hundred seventy-six dollars and thirty-five cents ($1,476.35) per pupil shall be decreased at the rate of nine dollars and

seventy-five cents ($9.75) for each additional pupil over twenty-four (24) until the ANB shall have reached a total of forty (40) such pupils. For each high school having an ANB of more than forty (40) pupils, the maximum of thirteen hundred twenty dollars and thirty-five cents ($1,320.35) per pupil shall be decreased at the rate of six dollars and sixty cents ($6.60) for each additional pupil over forty (40) until the ANB shall have reached one hundred (100) pupils. For each high school having an ANB of more than one hundred (100) pupils, a maximum of nine hundred twenty-three dollars and seventy-five cents ($923.75) per pupil shall be decreased at the rate of two dollars and fifteen cents ($2.15) for each additional pupil over one hundred (100) until the ANB shall have reached two hundred (200) pupils. For each high school having an ANB of more than two hundred (200) pupils, the maximum of seven hundred eight dollars and seventy-five cents ($708.75) per pupil shall be decreased by forty-nine cents ($.49) for each additional pupil over two hundred (200) until the ANB shall have reached three hundred (300) pupils. For each high school having an ANB of more than three hundred (300) pupils, the maximum of six hundred sixty dollars ($660) per pupil shall be decreased at the rate of twelve and one-half cents ($.125) per pupil until the ANB shall have reached six hundred (600) pupils. For each high school having an ANB over six hundred (600) pupils, the maximum shall not exceed six hundred twenty-two dollars and fifty cents ($622.50) per pupil.

$1,320.35 per pupil —decrease $6.60.

$923.75 per pupil —decrease $2.15.

$708.75 per pupil—decrease 49 cents.

$660 per pupil—decrease 12½ cents.

$622.50 per pupil.

Basis of computation.

(9) The maximum per pupil for all pupils (ANB) and for all high schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB. All high schools and junior high schools which have been approved and accredited as junior high schools, operated within the incorporated limits of a city or town shall be treated as one school for the purpose of this schedule.

Prorated for junior high school.

(10) The general fund budget amount for an approved and accredited junior high school shall be prorated between the elementary district general fund budget and the high school district general fund budget in the following manner:

Computation.

(a) determine the per-ANB schedule amount for the

school, as defined by this section, from the high school schedule;

(b) calculate the ANB for the regularly enrolled full-time pupils enrolled in the seventh (7th) and eighth (8th) grades of the junior high school;

(c) multiply the per-ANB schedule amount determined in subsection (a) by the ANB calculated in subsection (b) to determine the authorized general fund budget amount which shall be available for the elementary district general fund budget; and

(d) subtract the amount determined in subsection (c) from the total authorized general fund budget amount for the school to determine the authorized general fund budget amount which shall be available for the high school district general fund budget.

Total-maximum-general-fund-budget-without-a-veto levy.

The general fund budget amount determined for each school of a district under the schedules provided in this section shall be totaled to determine the maximum-general-fund-budget-without-a-voted-levy for such district.

Section 256. Section 75-6906. **Definition of foundation program and its proportion of the maximum-general-fund-without-a-voted-levy schedule amount, and non-isolated school foundation program financing.** As used in this title, the term "foundation program" shall mean the minimum operating expenditures as established herein, that are sufficient to provide for the educational program of a school. It shall be financed by (1) county equalization monies, (2) state equalization aid, and (3) when required, monies from an additional county levy for a state deficiency. In addition, the elementary school foundation programs shall be supported by interest and income monies. The foundation program relates only to those expenditures authorized by a district's general fund budget and shall not include expenditures from any other fund.

"Foundation program" defined.

Source of monies.

Dollar amount—80% of limitation.

The dollar amount of the foundation program shall be eighty per cent (80%) of the maximum general-fund-budget-without-a-voted-levy limitation as set forth in the schedules in section 75-6905. The foundation program of an elementary school having an ANB of nine (9) or fewer pupils which is not approved as an isolated school under the provisions of section 75-6608 shall be eighty

per cent (80%) of the schedule amount but the county and state shall participate in financing one-half (½) of the foundation program and the district shall finance the remaining one-half (½) by a tax levied on the property of the district. When a school of nine (9) or fewer pupils is approved as isolated under the provisions of section 75-6608, the county and state shall participate in the financing of the total amount of the foundation program.

Section 257. Section 75-6907. **Definition of interest and income monies.** As used in this title, the term "interest and income monies" shall mean the total of the following revenues, as provided in section 5, article XI of the constitution of the State of Montana: (1) ninety-five per cent (95%) of the interest received from the investment of the public school fund;

"Interest and *income monies*" defined.

(2) ninety-five per cent (95%) of the interest received from the investment of any other school funds held in trust by the state board of land commissioners;

(3) ninety-five per cent (95%) of the income received from the leasing of state school lands after any deductions that may be made under the provisions of chapter 24 of title 81, R.C.M., 1947; and

(4) ninety-five per cent (95%) of any other income derived from any other covenant affecting the use of state school lands.

The remaining five per cent (5%) of such revenues shall be annually credited to the public school fund.

Section 258. Section 75-6908. **Distribution of interest and income monies by superintendent of public instruction.** The state board of land commissioners shall annually deposit the interest and income monies for each calendar year to the credit of the account established by the state treasurer for such monies by the last business day of February following the calendar year in which the monies were received.

Annual deposit of interest and income.

Last business day of February.

On or before the first Monday of March the superintendent of public instruction shall distribute the total amount of the interest and income monies on deposit with the state treasurer to the several counties of the state. The amount to be distributed to each county shall be calculated as follows: (1) the total amount to be dis-

Distribution—first Monday in March.

Calculation of amount to each county.

tributed shall be divided by the approved total number of school census children in the State of Montana, as established by the approved school census report of each district for the current school fiscal year under the provisions of sections 75-5936 and 75-5937, to determine the per census child payment of the interest and income monies; and

(2) the per census child payment determined in subsection (1) shall be multiplied by the approved number of school census children reported by each district of the county. The result is the portion of interest and income monies to be distributed to such county.

The total amount of the interest and income monies deposited with the state treasurer in accordance with this section shall be distributed in the annual distribution made by the superintendent of public instruction. The superintendent of public instruction shall certify to the county superintendent of each county, the amount of interest and income monies distributed to his county.

Certification.

Section 259. Section 75-6909. **Apportionment of interest and income monies by county superintendent.** Immediately upon receipt of the interest and income monies from the superintendent of public instruction, the county superintendent shall apportion the county's receipt of interest and income monies to the several elementary districts of the county. Such apportionment shall not be made to any elementary district that: (1) will not operate at least one school during the current school fiscal year for at least one hundred eighty (180) days as provided in section 75-7402; or

Apportionment to districts.

Exceptions.

(2) did not submit its annual fiscal report to the county superintendent by the first day of August as provided in subsection (5) of section 75-6806.

Section 260. Section 75-6910. **Procedure for distribution of interest and income monies in a county.** The county superintendent shall order the county treasurer to distribute the interest and income monies to the eligible elementary districts on the following basis: (1) the total amount of interest and income monies received from the state shall be divided by the approved total number of census children in the eligible elementary districts of the county, to determine the per census child apportionment of the interest and income monies for the county; and

Basis for distribution by county treasurer.

(2) the apportionment determined in subsection (1) shall be multiplied by the approved number of school census children reported by the district. The result is the portion of interest and income monies received by the county to be apportioned to such eligible district.

The total amount of the interest and income monies received from the state shall be apportioned by the county superintendent. The county treasurer shall credit the interest and income monies to the several elementary districts of the county in accordance with the apportionment order of the county superintendent.

Section 261. Section 75-6911. **Budget estimations of interest and income monies.** The interest and income monies shall be the first source of revenue in calculating the financing of an elementary district foundation program. In June, the superintendent of public instruction shall estimate a statewide per census child payment of the estimated interest and income monies that will be available for the ensuing school fiscal year distribution. The superintendent of public instruction shall notify the county superintendents of such estimate by the first day of July. For budgeting purposes, the county superintendent shall use the per census child estimate of the superintendent of public instruction and the approved number of school census children from the last completed census report of the district to estimate the interest and income monies available for the financing of the ensuing year's foundation program.

In June—estimate by state superintendent.

Notice to county superintendents.

Basis for estimate for budget purposes.

Section 262. Section 75-6912. **Basic county tax and other revenues for county equalization of the elementary district foundation program.** It shall be the duty of the county commissioners of each county to levy an annual basic tax of twenty-five (25) mills on the dollar of the taxable value of all taxable property within the county unless a basic levy of less than twenty-five (25) mills is sufficient to finance the total amount of the foundation programs of all the elementary districts of the county. In order to determine if a lesser levy will be sufficient, the sum of the estimated revenues identified in subsections (1) through (6) below shall be subtracted from the sum of the county elementary transportation obligation and the total of the foundation programs of all elementary districts of the county. If a basic levy of less than twenty-five (25) mills is sufficient to finance the

Duty to levy annual basic tax—25 mills exception.

Determination of lesser levy.

difference determined above, the county commissioners shall fix a basic levy of such amount. No elementary district within a county levying less than twenty-five (25) mills shall receive any distribution of state equalization aid.

Effect.

Use of levy proceeds.

The proceeds realized from the levy prescribed by this section and the revenues from the following sources shall be used for the equalization of the elementary district foundation programs of the county as prescribed in section 75-6914 and a separate accounting shall be kept of such proceeds and revenues by the county treasurer in accordance with subsection (1) of section 75-6805; (1) the portion of the federal forest reserve funds distributed to a county and designated for the common school fund under the provisions of section 79-205, R.C.M., 1947;

Separate accounting.

Forest reserve funds.

Taylor grazing act funds.

(2) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the common school fund under the provisions of section 79-702, R.C.M., 1947;

Flood control act funds.

(3) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of section 79-2102, R.C.M., 1947;

Fines.

(4) all monies which are paid into the county treasury as a result of fines for violations of law and the use of which is not otherwise specified by law;

Carry-over monies.

(5) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account for the various sources of revenue established or referred to in this section; and

Payments in lieu of property taxation.

(6) any federal or state monies distributed to the county as payment in lieu of the property taxation established by the county levy required by this section.

Section 263. Section 75-6913. **Basic special levy and other revenues for county equalization of high school district foundation program.** It shall be the duty of the county commissioners of each county to levy an annual basic special tax for high schools of fifteen (15) mills on the dollar of the taxable value of all taxable property within the county unless a basic special levy for high schools of less than fifteen (15) mills is sufficient to

Duty to levy annual basic special tax—15 mills.

Exception.

finance the total amount of the foundation programs of all the high school districts of the county. In order to determine if a lesser levy will be sufficient, the estimated revenues identified in subsections (1) and (2) below shall be subtracted from the sum of the county's high school tuition obligation and the total of the foundation programs of all high school districts of the county. If a basic special levy for high schools of less than fifteen (15) mills is sufficient to finance the difference determined above, the county commissioners shall fix a basic special levy for high schools of such amount. No high school district within a county levying less than fifteen (15) mills shall receive any distribution of state equalization aid.

Determination of lesser levy.

Effect.

Use of levy proceeds.

The proceeds realized from the levy prescribed in this section and the revenues from the following sources shall be used for the equalization of the high school district foundation programs of the county as prescribed in section 75-6914, and a separate accounting shall be kept of these proceeds by the county treasurer in accordance with subsection (1) of section 75-6805: (1) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account for deposit of the proceeds from the levy established in this section; and

Separate accounting.

Carry-over monies.

(2) any federal or state monies distributed to the county as a payment in lieu of the property taxation established by the county levy required by this section.

Payments in lieu of property taxation.

Section 264. Section 75-6914. **Apportionment of county equalization monies by county superintendent.** The county superintendent shall separately apportion the revenues deposited in the basic county tax account and the revenues deposited in the basic special tax for high schools account to the several districts of the county on a quarterly basis. Such apportionments shall be known as "county equalization monies." Before the county superintendent makes the quarterly apportionments, he shall: (1) deduct from the revenues available in the basic county tax account, the amount required for the quarter to pay the county's obligation for elementary transportation reimbursements; and

Apportionment of revenues.

"County equalization monies."

Deductions.

(2) deduct from the revenues available in the basic special tax for high schools account, the amount re-

quired for the quarter to pay the county's obligation for high school out-of-county tuition.

Section 265. Section 75-6915. **Formulas for apportionment of county equalization monies.** After making such deductions prescribed in section 75-6914, the county superintendent shall apportion the remaining amount of monies available in the basic county tax acount to the several elementary districts of the county and in the basic special tax for high schools account to the several high school districts of the county in proportion to their needs under the foundation program in accordance with the following procedure:

Apportionment based on needs under foundation program.

Procedure.

Elementary schools.

Elementary Schools

(1) Determine the percentage that the sum of interest and income monies plus the county equalization monies available for the support of the foundation programs of the elementary districts in the county is of the total amount of the foundation programs of all such elementary districts.

(2) Determine the percentage that the interest and income monies available to each elementary district (excluding any county equalization monies) is of the amount of the foundation program of each such elementary district.

(3) Elementary districts in which the percentage determined in subsection (2) exceeds the percentage determined in subsection (1) shall not be entitled to an apportionment of the county equalization monies available for the equalization of the elementary district foundation program and shall be excluded from further consideration under this procedure.

(4) After elimination of elementary districts under subsection (3), determine the percentage that the sum of the interest and income monies available to all remaining elementary districts in the county plus the county equalization monies available for the support of the foundation programs of the elementary districts in the county is of the total amount of the foundation programs of all such remaining elementary district.

(5) The difference between the percentage determined in subsection (4) above and the percentage determined

for such eligible elementary district in subsection (2) above, shall be multiplied by the foundation program amount for each remaining elementary district to determine the portion of the county equalization monies available to each eligible elementary district.

High Schools

High schools.

(6) Determine the percentage that the county equalization monies available for the support of the foundation programs of the high school districts in the county is of the total amount of the foundation programs of all such high school districts.

(7) Multiply the foundation program amount of each high school district by the percentage determined in subsection (6) above to determine the portion of the county equalization monies available to each high school district.

Limitations on exclusion.

No district shall be deprived of its needful share of the county monies apportioned under this section by reason of it being non-accredited. Nor shall any territory situated within a county be excluded from the apportionment of the county equalization monies under this section solely because such territory lies within the boundaries of a joint district. Cash balances to the credit of any district at the end of a school fiscal year shall not be considered in the apportionment procedure prescribed in this section.

Retention of excess monies.

When the total amount of the available county monies for apportionment under this section is greater than the amount of money to be apportioned under the apportionment procedure prescribed by this section, the excess amount of county monies shall be retained by the county to be considered as financing during the ensuing school fiscal year under the requirements of subsection (5) of section 75-6912 or subsection (1) of section 75-6913.

Use of revenues.

The county equalization monies apportioned under these procedures shall constitute the second source of revenue in calculating the financing of the elementary district foundation program and shall constitute the first source of revenue in calculating the financing of the high school district foundation program. The county superintendent shall use the apportionment procedure prescribed in this section in computing the estimated

revenues for the financing of the ensuing year's foundation program for budgeting purposes.

Sources of fund for equalization aid.

25% of income taxes.

25% of corporation license taxes.

One-half of oil and gas royalties.

Section 266. Section 75-6916. **Definition of and revenue for state equalization aid.** There shall be paid into the earmarked revenue fund, for state equalization aid to public schools of the state, twenty-five per cent (25%) of all monies received from the collection of income taxes under chapter 49 of title 84, R.C.M., 1947, and twenty-five per cent (25%) of all monies received from the collection of corporation license taxes under chapter 15 of title 84, R.C.M., 1947, as provided by section 84-1901, R.C.M., 1947. In addition to these revenues, one-half (½) of the monies received from the treasurer of the United States as the state's share of oil and gas royalties under the act of congress of February 25, 1920 shall be paid into the same earmarked revenue fund.

"State equalization aid" defined.

As used in this title, the term "state equalization aid" shall mean those monies deposited in the earmarked revenue fund as required in this section plus any legislative appropriation of monies from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

Purposes.

Section 267. Section 75-6917. **Purpose of state equalization aid and duties of the board of education for distribution.** The monies available for state equalization aid shall be distributed and apportioned to provide an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt service and for the payment of any and all costs and expense incurred in connection with any adult education program, kindergarten, recreation program, school food services program, new buildings, new grounds, and transportation.

Powers and duties of board of education.

The board of education shall administer and distribute the state equalization aid in the manner and with the powers and duties provided by law. To this end, the board of education shall:

Policies.

(1) adopt policies for regulating the distribution of state equalization aid in accordance with the provisions of law;

Reports.

(2) have the power to require such reports from the county superintendents, budget boards, county treasurers, and trustees as it may deem necessary; and

Orders to distribute.

Limitations.

(3) in the months of December and April of each school fiscal year, order the superintendent of public instruction to distribute the state equalization aid on the basis of each district's annual entitlement to such aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of education shall not increase or decrease the state equalization aid distribution to any district on account of any difference which may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

State superintendent's duties.

Administration.

Determination of amount of aid.

Section 268. Section 75-6918. **Duties of the superintendent of public instruction for state equalization aid distribution.** The superintendent of public instruction shall administer the distribution of the state equalization aid by: (1) establishing each district's annual entitlement to state equalization aid, based on the data reported in the budget for each district that has been duly adopted for the current school fiscal year and verified by the superintendent of public instruction, and by applying such verified data under the provisions of the state equalization aid allocation procedure prescribed in section 75-6919;

Recommendations to board.

(2) recommending to the board of education the annual entitlement of all districts to state equalization aid to enable the board of education to order the distribution of state equalization aid;

Distribution by warrants.

(3) distributing by state warrant the state equalization aid for each district entitled to such aid, to the county treasurer of the county where the district is located, in accordance with the distribution ordered by the board of education;

Records.

(4) keeping a record in his office of the full and complete data concerning monies available for state equalization aid and the entitlements for state equalization aid of the several districts of the state;

Reports of estimates—July and December.

(5) reporting to the board of education at its meeting in July and December of each year, the estimated amount which will be available for state equalization aid for the next succeeding six month period, commencing on July 1 and January 1; and

Reports to legislative assembly.

(6) reporting to both branches of the state legislative assembly in any year when a session is convened the

figures and data available in his office concerning distributions of state equalization aid during the preceding two school fiscal years, the amount of state equalization aid then available, the apportionment made of such available monies but not yet distributed, and the latest estimate of accruals of monies available for state equalization aid.

Duty to apportion.

Procedure for determination.

Section 269. Section 75-6919. **Formula for state equalization aid apportionment.** The superintendent of public instruction shall apportion the state equalization aid, individually for the elementary districts of a county or the high school districts of a county, in accordance with section 75-6918 and on the basis of the following procedure: (1) Determine the percentage that the total funds available to all counties in the state in support of the foundation program (including the state monies available for state equalization aid) is of the total amount of the foundation programs of all counties;

(2) Determine the percentage that the total funds available in each county in support of the foundation programs in such county (excluding state monies available for state equalization aid) is of the total amount of the foundation programs of all districts of such county;

(3) Counties in which the percentage determined in subsection (2) exceeds the percentage determined in subsection (1) shall not be entitled to an apportionment of the state equalization aid;

(4) After elimination of the counties referred to in subsection (3), determine the percentage that the total monies available to all remaining counties in support of the foundation program (including the state monies available for state equalization aid) is of the total amount of the foundation programs of all such remaining counties;

(5) Each district of each remaining county shall be entitled to an apportionment of the state equalization aid which shall be the difference between the percentage determined in subsection (4) and the percentage determined for such county in subsection (2) multiplied by the foundation program amount for such district.

Reports to county.

The superintendent of public instruction shall supply the county treasurer and the county superintendent with a report of the apportionments of state equalization aid

to the several districts of the county and the state equalization aid shall be apportioned to such districts in accordance with such report.

Source of revenue.

Section 270. Section 75-6920. **Estimation of state equalization level and state equalization aid for budget purposes.** The apportionment of state equalization aid shall be the third source of revenue in calculating the financing of the elementary district foundation program and it shall be the second source of revenue in calculating the financing of the high school district foundation program. In order to allow for the estimation of the amount of money to be realized from this source of revenue when the county superintendent is estimating the general fund budget revenues, the superintendent of public instruction shall annually estimate a uniform percentage of each district's foundation program which state foundation program revenues and county equalization monies, together, will be capable of financing. Such estimate shall be called the "state equalization level" and shall be based on the best available data and calculated according to the allocation procedure provided in section 75-6919.

Annual estimate of uniform percentage.

"State equalization level."

Notice by July 1.

Use.

The superintendent of public instruction shall notify each county superintendent of the state equalization level estimate by the first day of July. The county superintendent shall use such estimated state equalization level in establishing the budget estimate of the financing available for each district's foundation program for the ensuing school fiscal year.

Duty of county to levy additional taxes.

Section 271. Section 75-6921. **Additional county levy for state deficiency.** If the estimated state equalization level made under the provisions of section 75-6920 is less than one hundred per cent (100%), it shall be the duty of the county commissioners of each county to levy, separately for the elementary districts and the high school districts, additional taxes in such number of mills on the taxable value of all taxable property within the county as shall be required to complete the financing of the foundation programs of all elementary districts or all high school districts of the county.

Separate accounting.

As provided in section 75-6805, the county treasurer shall keep a separate accounting of the proceeds realized from these mill levies. The county superintendent shall

Duty to apportion. apportion the proceeds of the mill levies to the elementary districts of the county or the high school districts of the county, whichever the case may be, on the following basis:

Procedure for determination. (1) Determine the total amount required from this source of revenue by the several elementary or high school districts of the county.

(2) Determine the total amount of monies available for this source of revenue.

(3) Calculate the percentage the amount determined in subsection (2) is of the amounts determined separately in subsection (1) for all elementary or all high school districts.

(4) Multiply each elementary district or each high school district requirement for this source of revenue by the percentage calculated in subsection (3).

When the total amount of the proceeds realized from these mill levies is greater than the requirements of all the elementary districts or high school districts of the county, whichever the case may be, the excess amount of county monies shall be retained by the county for reduction of the ensuing year's additional county levy for elementary schools or high schools.

Retention of excess monies.

"Additional county levy for state deficiency." The apportionment of county monies under this section shall be known as the "additional county levy for state deficiency" and it shall be the last source of revenue in calculating the financing of the elementary district foundation program and the high school district foundation program.

Computation by second Monday in August. The county superintendent shall compute the budgeted requirement for this source of revenue for each district and for the county, and shall supply the county requirements for the elementary district foundation programs and the high school district foundation programs to the county commissioners on the second Monday of August in accordance with section 75-6717.

Section 272. Section 75-6922. **Permissive levy.** Whenever the trustees of any district shall deem it necessary to adopt a general fund budget in excess of the foundation program amount but not in excess of the maximum general fund budget amount for such district as established by the schedule in section 75-6905, the trustees shall adopt a resolution stating the reasons and purposes for exceeding the foundation program amount. The financing of such general fund budget amount shall be known as the "permissive levy," and it shall be financed by a levy on the taxable value of all taxable property within the district as prescribed in section 75-6926.

Resolution.

"Permissive levy."

Section 273. Section 75-6923. **Additional levy for general fund and election for authorization to impose.** The trustees of any district may propose to adopt a budget in excess of the general fund budget amount for such district as established by the schedule in section 75-6905 for any of the following purposes: (1) building, altering, repairing or enlarging any schoolhouse of the district;

Trustees may propose excess budget.

Purposes.

(2) furnishing additional s c h o o l facilities for the district;

(3) acquisition of land for the district;

(4) proper maintenance and operation of the school programs of the district.

When the trustees of any district determine that an additional amount of financing is required for the general fund budget that is in excess of the statutory schedule amount, the trustees shall submit the proposition of an additional levy to raise such excess amount of general fund financing to the electors who are qualified, under section 75-6411, to vote upon such proposition. Such special election shall be called and conducted in the manner prescribed by this title for school elections. The ballot for such election shall state the amount of money to be raised by additional property taxation, the approximate number of mills required to raise such money, and the purpose for which such money will be expended, and it shall be in the following format:

Special election.

Ballot.

Format.

PROPOSITION

Shall a levy be made in addition to the levies authorized by law in such number of mills as may be necessary to raise the sum of (state the amount to be raised by additional tax levy), and being approximately (give number) of mills, (insert the purpose for which the additional tax levy is made)?

☐ FOR the additional levy.

☐ AGAINST the additional levy.

Effect of approval. If the election on an additional levy for the general fund is approved by a majority vote of those electors voting at such election, the proposition shall carry and the trustees may use any portion or all of the authorized amount in adopting the preliminary general fund budget.

Certification. The trustees shall certify the additional levy amount authorized by such a special election on the budget form that is submitted to the county superintendent, and the

Additional levy. county commissioners shall levy such number of mills on the taxable value of all taxable property within the district as prescribed in section 75-6926, as are required to raise the amount of such additional levy.

Limitations. Authorization to levy an additional tax under the provisions of this section shall be effective for only one school fiscal year and shall be authorized by a special

August 1. election conducted before the first day of August of the school fiscal year for which it is effective. Only one such additional levy for the maintenance and operation of the school programs of a high school district may be imposed by a high school district in a given school fiscal year.

Trustees shall designate cash reserve. Section 274. Section 75-6924. **General fund cash reserve.** At the end of each school fiscal year, the trustees of each district shall designate what portion of the general fund end-of-the-year cash balance shall be earmarked as cash reserve for the purpose of paying general fund warrants issued by the district from the first day of July to the last day of November of the ensuing school fiscal

Limitations. year. The amount of the general fund cash balance that

35%. is earmarked as cash reserve shall not exceed thirty-five percent (35%) of the final general fund budget for the ensuing school fiscal year and shall not be used for property tax reduction in the manner permitted by subsection (2) of section 75-6926 for other receipts. Any portion of the general fund end-of-the-year cash balance that is not earmarked for cash reserve purposes shall be

Property tax reduction. cash reappropriated which shall be used for property tax reduction as provided in subsection (2)(c) of section 75-6926.

District eligibility for state impact aid. Section 275. Section 75-6925. **Eligibility for and payment of state impact aid.** Any district which shall have children of employees of a public institution may be eligible for state impact aid under the following pro-

"Employee" defined. visions: (1) An "employee" means an employee of a public institution under the administration of the department of public institutions as defined in section 80-1403, R.C.M., 1947, who resides on the property of such a public institution;

Computation. (2) A school district shall receive annually from monies available for state equalization aid one hundred fifty dollars ($150) for each elementary pupil, and two hundred fifty dollars ($250) for each high school pupil, whose parents are employees of an institution located in the school district where the pupil attends school or in a school district which has a tuition agreement with the district where the pupil attends school;

Application. (3) A district which is eligible for state impact aid shall apply for such aid to the superintendent of public instruction in the manner prescribed by the rules and regulations prescribed by the superintendent of public instruction; and

Deposit. (4) The distribution of state impact aid shall be deposited in the general fund of the district and shall not be considered as a part of the state equalization aid but shall be used to reduce the property tax in support of the general fund of the district.

Duty to compute levy requirements. Section 276. Section 75-6926. **Computation of general fund net levy requirement by county superintendent.** The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure: (1) Determine the total of the district's non-isolated school foundation program requirement to be met by a district levy as provided in section 75-6906, the district's permissive levy amount as provided in section 75-6922, and any additional levies authorized by the electors of the district under the provisions of section 75-6923; except that the total of the permissive and additional levies shall not exceed the total amount of the final general fund budget less the foundation program.

Procedure. (2) Determine the total of the monies available for the reduction of the property tax on the district for the general fund by totaling:

(a) anticipated federal monies received under the provisions of Title I of Public Law 81-874 or other anticipated federal monies received in lieu of such federal act;

(b) anticipated tuition payments for out-of-district

pupils under the provisions of sections 75-6317, 75-6320, 75-7321 and 75-7203;

(c) general fund cash reappropriated, as established under the provisions of section 75-6924;

(d) anticipated state impact aid received under the provisions of section 75-6925;

(e) anticipated interest to be earned by the investment of general fund cash in accordance with the provisions of subsection (4) of section 75-6806; and

(f) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year which may be used to finance the general fund.

(3) Subtract the total of the monies available to reduce the property tax required to finance the general fund that has been determined in subsection (2) from the total levy requirement determined in subsection (1).

Report to county by second Monday in August.

(4) The net general fund levy requirement determined in subsection (3) shall be reported to the county commissioners on the second Monday of August by the county superintendent as the general fund levy requirement for the district, and a levy shall be made by the county commissioners in accordance with section 75-6717.

Joint districts proration.

Section 277. Section 75-6927. **Proration and calculation of foundation program for a joint district.** In joint districts, the foundation program shall be prorated among the counties in which any part of the joint district is located for the purpose of determining the amount of each source of revenue for the foundation program for which each county is obligated. The proration of the joint district foundation program shall be calculated as follows: (1) Divide the joint district foundation program by the ANB of the joint district to determine the per ANB amount of the foundation program.

Calculation.

(2) Determine the ANB for each county's portion of the joint district on the basis of each pupil's resident county. When taken together, the sum of the ANB assigned to all the counties shall equal the total ANB for the joint district.

(3) Multiply the per ANB amount of the foundation program determined in subsection (1) by the ANB for

each county's portion as determined in subsection (2) to determine the portion of the foundation program for each county.

Basis for calculation.

The portion of a joint district foundation program for each county, as determined in subsection (3) of this section, shall be considered as a separate foundation program in such county for the purposes of calculating the various revenues for the foundation program. The interest and income monies available to joint elementary districts shall be considered as prorated to the several counties on the basis of each child's county of residence. After the calculation of the foundation program revenues, the remainder of the general fund revenues shall be calculated in accordance with the provisions for general fund financing.

Definitions.

Section 278. Section 75-7001. **Definitions.** As used in this title, unless the context clearly indicates otherwise:

"Transportation."

"Transportation" shall mean: (1) a district's conveyance of a pupil by a school bus between his legal residence and the school designated by the trustees for his attendance; or

"Individual transportation."

(2) "individual transportation" whereby a district is relieved of actually conveying a pupil. Such individual transportation may include paying the parent or guardian for conveying the pupil, reimbursing the parent or guardian for the pupil's board and room, or providing supervised correspondence study or supervised home study.

"Eligible transportee."

An "eligible transportee" shall mean a public school pupil who: (1) is not less than six (6) years of age nor has attained his twenty-first (21st) birthday;

(2) is a resident of the State of Montana;

(3) regardless of district and county boundaries, resides at least three (3) miles, over the shortest practical route, from the nearest operating public elementary school or public high school, whichever the case may be; and

(4) is deemed by law to reside with his parent or guardian who maintains legal residence within the boundaries of the district furnishing the transportation regardless of where the eligible transportee actually lives when attending school.

"School bus" defined.

Section 279. Section 75-7002. **School bus definition and identification requirements.** A "school bus" shall mean any motor vehicle which is owned by a district or other public agency or by a carrier under contract with such a district or public agency, and which complies with the bus standards established by the board of education as determined by the Montana highway patrol's annual inspection of school buses and the superintendent of public instruction. Such bus may be operated by the district or other public agency for the conveyance of pupils or may be privately operated by a carrier to provide such conveyance of pupils under contract with a district or other public agency. Every school bus shall bear on the front and rear of the bus a plainly visible sign containing the words "school bus" in letters at least eight (8) inches in height. When a school bus is operated on a highway for purposes other than transporting pupils to and from school or for school functions, all markings identifying it as a school bus shall be concealed.

Operation.

Markings.

Exception.

Driver qualifications.

Section 280. Section 75-7003. **School bus driver qualifications.** Any driver of a school bus shall be qualified to drive such school bus by compliance with the following requirements: (1) he is not less than twenty-one (21) years of age;

At least 21.

Good moral character.

(2) he is of good moral character;

License.

(3) he is the holder of a chauffeur's license;

Medical examination.

(4) he has filed with the district a satisfactory medical examination report signed by a licensed physician of the State of Montana on a blank provided by the superintendent of public instruction;

First-aid.

(5) he has completed a standard first-aid course and holds a valid standard first-aid certificate from an authorized instructor. The issuance of such certificate shall be governed by rules and regulations established by the superintendent of public instruction, provided that such rules may suspend this requirement for a reasonable period of time where there has been an inadequate opportunity for securing the first-aid course and certificate;

Other.

(6) he has complied with any other qualifications established by the board of education; and

Certification.

(7) he has filed with the county superintendent a certificate from the trustees of the district for which the

school bus is to be driven certifying compliance with the several driver qualifications enumerated in this section.

Duties of board education.

Section 281. Section 75-7004. **Duties of board of education.** The board of education, by and with the advice of the chief of the Montana highway patrol and the superintendent of public instruction, shall adopt and enforce policies, not inconsistent with the motor vehicle code, to provide uniform standards and regulations for the design, construction and operation of school buses in the State of Montana. Such policies shall: (1) prescribe minimum standards for the design and construction of school buses not inconsistent with:

Uniform standards for school buses.

Minimum standards.

(a) the minimum standards adopted by the national commission on safety education; or

(b) the minimum standards adopted by the national highway safety bureau.

(2) prescribe standards and specifications for the lighting equipment and special warning devices to be carried by school buses in conformity with:

(a) the current specifications approved by the society of automobile engineers;

(b) the motor vehicle code; and

(c) the requirement that all school buses shall have an alternately flashing pre-warning lighting system of four amber signal lamps to be used while preparing to stop and an alternately flashing warning lighting system of four red signal lamps to be used while stopped in accordance with section 32-21-132, R.C.M., 1947.

Other driver qualifications.

(3) establish any other driver qualifications that may be deemed necessary in addition to the qualifications required in section 75-7003.

Service areas.

(4) prescribe criteria for the establishment of transportation service areas for school bus purposes by the county transportation committee which shall allow for the establishment of such areas without regard to the district boundary lines within the county.

Criteria for residence.

(5) prescribe any other criteria for the determination of the residence of a pupil that may be deemed necessary in addition to the criteria established in section 75-7016.

Operation of school buses.

(6) prescribe any other policies for the operation of school buses which are not inconsistent with the motor vehicle code, the minimum standards adopted by the national commission on safety education for school bus operation, the highway safety standards, and the transportation programs that are not inconsisted with the transportation provisions of this title.

"Rated capacity."

(7) prescribe standards for the measurement of the child seating capacity of school buses, to be known as the "rated capacity."

Schedule of rates.

The board of education shall promulgate a schedule that establishes the basis for increasing the individual transportation rates due to isolation as provided in subsection (3) of section 75-7019. The board of education also shall prescribe any other policy necessary for the proper administration and operation of individual transportation programs that are not inconsistent with the transportation provisions of this title.

Operation of individual programs.

Duties of superintendent of public instruction.

Section 282. Section 75-7005. **Duties of the superintendent of public instruction.** In order to have a uniform and equal provision of transportation by all districts in the State of Montana, the superintendent of public instruction shall: (1) prescribe rules, regulations, and forms for the implementation and administration of the transportation policies adopted by the board of education;

Transportation policies.

School bus routing.

(2) prescribe rules and regulations for the approval of school bus routing by the county transportation committee;

Contracts.

(3) prescribe the format of the contract for individual transportation and supply each county superintendent with a sufficient number of such contracts;

Individual contracts.

(4) prescribe rules and regulations for the approval of individual transportation contracts, including the increases of the schedule rates due to isolation under the policy of the board of education;

School bus routing.

(5) approve, disapprove, or adjust all school bus routing submitted by the county superintendent;

Individual contracts.

(6) approve, disapprove, or adjust all individual transportation contracts submitted by the county superintendent;

Controversies.

(7) prescribe rules and regulations for the consideration of controversies appealed to him, and rule on such controversies; and

Reimbursement.

(8) disburse the state transportation reimbursement in accordance with the provisions of law and the transportation policies of the board of education.

Penalties for violation of school transportation rules and regulations.

Section 283. Section 75-7006. **Penalty for violating law, board of education policies or superintendent of public instruction rules and regulations.** Every district, its trustees and employees, and every person under a transportation contract with a district shall be subject to the policies prescribed by the board of education and the rules and regulations prescribed by the superintendent of public instruction. Any trustee or district employee who violates any transportation law or board of education transportation policy or who fails to include as a condition in any district transportation contract the obligation to comply with such law or policies shall be guilty of misconduct and subject to removal from office or employment by proceedings instituted in any court of competent jurisdiction by the county attorney of the county where the district is located. Any person operating a bus under contract with a district who fails to comply with the transportation law or the board of education transportation policies shall be guilty of breach of contract and the contract shall be cancelled after notice and hearing by the trustees of such district.

Duties of vehicle operator with respect to school buses.

Section 284. Section 75-7007. **Duties of school bus driver and driver of any vehicle when school bus is stopped or at railroad crossing, and penalty for failure to comply.** When outside the limits of an incorporated city or town, the driver of a vehicle, when approaching the front or rear of a school bus that has come to a stop on a public road and has its alternately flashing warning lighting system of four red signal lamps in operation and is receiving or discharging school children, shall stop his vehicle not less than ten (10) feet from such school bus and keep said vehicle stationary until the children have entered the school bus or have alighted and reached the side of the highway on which they live, and the school bus has resumed motion, or the driver has signaled traffic to proceed.

Exceptions.

The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school

bus which is on a different roadway, or when upon a controlled access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

Unlawful to operate lights unless stopping.

It shall be unlawful to operate any flashing prewarning or warning signal light on any school bus except when the school bus is preparing to stop or is stopped for the purpose of permitting school children to board or alight from the bus.

Duty to stop at railroads.

The driver of any school bus, before crossing any track or tracks of a railroad at grade, shall stop the school bus within fifty (50) feet, but not less than fifteen (15) feet, from the nearest rail of such track and while stopped shall open the door and shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, and shall not proceed until he can do so safely. After stopping and proceeding when it is safe to do so, the driver of any school bus shall cross only in a gear of the vehicle that will not necessitate the changing of gears while traversing the crossing, and the driver shall not shift gears while crossing the track or tracks. No stop need be made at any crossing where a police officer or a traffic-control signal directs traffic to proceed.

Open door.

Listen and look.

Shifting gears prohibited.

Exception.

Penalties for violations.

Any person who shall fail to comply with or who shall violate the provisions of this section shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than ten dollars ($10) nor more than one hundred dollars ($100), or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Section 285. Section 75-7008. **Duty of trustees to provide transportation, types of transportation, and bus riding time limitation.** The trustees of any district may furnish transportation to an eligible transportee who attends a school of the district or has been granted permission to attend a school outside of the district. Whenever the trustees of a district provide transportation for any eligible transportee, the trustees must provide all eligible transportees of the district with transportation. The trustees shall furnish transportation when directed to do so by the county transportation committee and such

Trustees may provide transportation—eligible transportees.

Equal treatment.

Transportation required.

direction is upheld by the superintendent of public instruction. The parent or guardian of an eligible transportee may, at his discretion, provide transportation or arrange for transportation for his child at his own expense to any district willing to accept his child.

Private transportation.

The type of transportation provided by a district may be (1) by a school bus; or

Allowable types of transportation.

(2) by such individual transportation as:

(a) paying the parent or guardian for individually transporting the pupil;

(b) paying board and room reimbursements;

(c) providing supervised correspondence study; or

(d) providing supervised home study.

When the parent or guardian of an elementary pupil consents to a trip of over one (1) hour, the trustees may require such eligible transportee to ride a school bus for more than one (1) hour per trip.

One hour trips.

Section 286. Section 75-7009. **Discretionary provision of transportation and payment for this transportation.** The trustees of any district also may provide school bus transportation to any pupil of a public school who is not an eligible transportee of the district under the following conditions: (1) On a school bus conveying eligible transportees when the ineligible transportee will not displace an eligible transportee from such school bus because of the lack of seating capacity.

Discretionary transportation—ineligible transportees.

(2) On a school bus operated by the district for the sole purpose of providing transportation for ineligible transportees. Such school bus shall service those children living the greatest distance from the school to be attended.

(3) On a school bus operated for the purpose of relieving congestion in a school building, or to avoid the necessity of erecting a new building, or for any other reasons of economy or convenience.

When the trustees of a district provide school bus transportation to an ineligible transportee under the conditions of subsections (1) or (2) above, the district may charge each ineligible transportee his proportionate share, as determined by the trustees, of the cost of operating

Charges.

such school bus. Money realized from such payments shall be deposited to the credit of the transportation fund.

Deposit.

Section 287. Section 75-7010. **Provision of transportation for nonpublic school children.** Any child attending a nonpublic school may ride a school bus when a permit to ride such school bus is secured from the operating district by the parent or guardian of such nonpublic school child, and when there is seating capacity available on such school bus. When a nonpublic school child rides a school bus, the operating district shall charge such child his proportionate share, as determined by the trustees, of the cost of operating such school bus. Money realized from such payments shall be deposited to the credit of the transportation fund.

Nonpublic schools—permit to ride school bus.

Charges.

Deposit.

Section 288. Section 75-7011. **Power of trustees to purchase and operate bus, contract for bus services, operate a two-way radio, and insure either type of bus.** The trustees of any district shall have the power to: (1) purchase or rent a school bus;

Powers of trustees—school transportation.

(2) purchase or rent a two-way radio for a school bus when the trustees authorize a two-way radio as standard equipment in a school bus because such bus is operated where weather and road conditions may constitute a hazard to the safety of the school pupil passengers;

(3) provide for the operation, maintenance and insurance of a school bus or a two-way radio owned or rented by the district; or

(4) contract with a private party for the transportation of eligible transportees and such contract shall not exceed the term of five (5) years.

Two-way radio frequencies.

When the trustees authorize a two-way radio as standard equipment on a school bus, the two-way radio may be operated on the same frequency as that used by the Montana highway patrol and the sheriff of the county when their permission and the permission of the federal communications commission is secured. If permission is not secured from these agencies, the frequency assigned by the federal communications commission shall be used for the operation of the two-way radios.

Contracts with private parties—duties.

When the trustees contract with any private party to provide transportation to eligible transportees, the private party shall comply in every respect with the regula-

tions of the board of education for the standards of equipment, operation and safety of the school bus, and qualifications of the driver. The trustees may, in contracting with private parties, require added safeguards by supplementing the board of education policies in the contract with additional requirements for bus specifications, age of drivers, liability insurance, operating speed or any other contractual condition deemed necessary by the trustees.

Whenever a bus is owned and operated by a district or the bus is operated by a private party under a contract but no condition of such contract requires the private party to carry liability insurance, the trustees shall carry automobile bodily injury and liability insurance in an amount not less than seven thousand five hundred dollars ($7,500) per person and fifty thousand dollars ($50,000) for each accident for each bus operated by or under contract with the district.

Liability insurance coverage.

When a district purchases a school bus, the trustees may purchase such school bus under an installment contract which will be completely executed within three years from the date of the purchase. The trustees also may purchase a school bus without advertising for bids under the provisions of section 75-6808.

Installment contracts—3 year limitation.

Advertising for bids not required.

Section 289. Section 75-7012. **Contracts for transportation.** Any school bus transportation by a private party or individual transportation that is furnished by a district shall be under contract and no district, county or state money shall be paid for such transportation services to any person or firm who does not hold a legal contract with the district. Transportation contracts for the ensuing year shall be completed by the fourth Monday of June except when an eligible transportee establishes residence in the district after the fourth Monday of June and a contingency amount is included in the regular transportation budget or an emergency transportation budget is adopted. (1) Transportation contracts between a district and a private party for the provision of school bus transportation shall be subject to the following requirements:

Legal transportation contract required.

Fourth Monday in June.

Private contract requirements.

(a) The contract shall be completed in quadruplicate and, upon completion, one copy shall be for the county superintendent, one copy for the private party, one copy

Distribution of copies.

for the superintendent of public instruction and one copy shall be retained by the district.

Conformance to law.

(b) The contract terms shall require conformance to the transportation law, policies of the board of education and rules and regulations of the superintendent of public instruction; and

Signing.

(c) The contract shall be signed by the chairman of the trustees and the private party.

Individual transportation contract requirements.

(2) A transportation contract between a parent or guardian of an eligible transportee and a district for the provision of individual transportation shall be subject to the following requirements:

Distribution of copies.

(a) It shall be completed in quadruplicate and, upon approval, one copy shall be for the parent or guardian, one copy for the district, one copy for the county superintendent, and one copy for the superintendent of public instruction;

Forms.

(b) It shall be completed on forms promulgated by the superintendent of public instruction;

Affidavit of residence.

(c) The parent or guardian shall sign an affidavit attesting to the place of residence of his child or children; and

Signing.

(d) It shall be signed by the chairman of the trustees and the parent or guardian of the eligible transportees.

Bids required for private contracts.

Section 290. Section 75-7013. **Bid letting for contract bus and payments under any transportation contract.** Before any contract with a private party for the provision of school bus transportation is awarded, the trustees shall secure bids by publishing at least three (3) calls for bids in a newspaper of the county that will give notice to the largest number of people of the district or in the official newspaper of the county during a period of twenty-one (21) days. The trustees shall let the contract to the lowest responsible bidder and the trustees shall have the right to reject any and all bids. The provisions of this section for awarding a contract for school bus transportation shall be subject to the provisions of section 75-6808.

Publication—three calls in 21 days.

Letting.

Rejection.

Limitations on expenditures for school bus transportation.

The trustees shall not expend any monies of the district for school bus transportation by a private party or for individual transportation unless: (1) a contract for such transportation services has been completed; and

(2) such contracted services for school bus transportation by a private party have been actually furnished except that the failure to perform may be excused by the trustees for reasons not under the control of the contractor; or

(3) such contracted services for individual transportation have been actually furnished as confirmed by the actual attendance of school by the eligible transportees and recorded on the school attendance records or, in the case of a supervised correspondence course or supervised home study, as confirmed by the trustees; except that the contracted services furnished one way on any school day shall be reimbursed at one-half (½) the daily contract amount.

Section 291. Section 75-7014. **County transportation committee membership.** To coordinate the orderly provision of a uniform transportation program within a county under the transportation law, board of education transportation policies, and the transportation rules and regulations of the superintendent of public instruction, there shall be a county transportation committee created in each county of the state of Montana. The membership of the county transportation committee shall be: (1) the county superintendent;

Composition county transportation committee.

(2) the chairman of the board of county commissioners or a member of such board designated by the chairman;

(3) a trustee or district employee designated by the trustees of each high school district of the county;

(4) one representative from each high school district of the county who is a trustee of an elementary district encompassed within the high school district and who has been selected at a meeting of the trustees of such elementary districts; and

(5) a representative of a district of another county when the transportation services of such a district are affected by the actions of the transportation committee, but such a representative shall have a voice only in matters affecting transportation within such district or by such district.

Minimum—5 members.

The county transportation committee shall have at least five members and if this minimum membership can-

not be realized in the manner prescribed in subsections (1), (2), (3) and (4) above, the county superintendent shall appoint a sufficient number of members to satisfy the minimum membership requirement.

Chairman. Quorum. Meetings on call.

The county superintendent shall be the chairman of the county transportation committee and a quorum shall consist of a majority of the membership. The county transportation committee shall meet on the call of the chairman or any three members of such committee.

Duties. Service areas.

Section 292. Section 75-7015. **Duties of the county transportation committee.** It shall be the duty of the county transportation committee to: (1) establish the transportation service areas within the county, without regard to district boundary lines, which will define the geographic area of responsibility for school bus transportation for each district that operates a school bus transportation program;

Routing.

(2) approve, disapprove, or adjust the school bus routing submitted by the trustees of each district in conformity with the transportation service areas established in subsection (1);

Reimbursements.

(3) approve, disapprove, or adjust applications, approved by the trustees, for increased reimbursements for individual transportation due to isolated conditions of the eligible transportee's residence; and

Hearings on appeals.

(4) conduct hearings to establish the facts of transportation controveries which have been appealed from the decision of the trustees, and act on such appeals on the basis of the facts established at such hearing.

Appeal.

After a fact-finding hearing and decision on a transportation controversy, the trustees or a patron of the district may appeal such decision to the superintendent of public instruction who shall render a decision on the basis of the facts established at the county transportation committee hearing.

Transfer.

The trustees of any district which objects to a particular school bus route or transportation service areas to which it has been assigned may request a transfer to another school bus route or transportation service area. The county transportation committee may transfer the territory of such district to an adjacent district's transportation service area or approved school bus route with the consent of such adjacent district. When the qualified electors of the district object to the decision of the county transportation committee and the adjacent district is willing to provide school bus service, twenty per cent (20%) of the qualified electors, as prescribed in section 75-6410, may petition the trustees to conduct an election on the proposition that the territory of such district be transferred for school bus transportation purposes to such consenting, adjacent district. When a satisfactory petition is presented to the trustees, the trustees shall call an election in accordance with section 75-6406 for the next ensuing regular school election day. Such election shall be conducted in accordance with the school election laws. If a majority of those voting at such election approve the transfer, it shall become effective on the first day of July of the ensuing school fiscal year.

Petition—20% of qualified electors. Election. Conduct. Effective date on approval—July 1.

Unless a transfer of a district from one transportation service area or approved school bus route to another such area or route is approved by the county transportation committee and the superintendent of public instruction, the state transportation reimbursement shall be limited to the reimbursement amount for school bus transportation to the nearest operating public elementary school or public high school, whichever is appropriate for the affected pupils.

Limitation on state reimbursement.

Section 293. Section 75-7016. **Determining residence.** When the residence of an eligible transportee is a matter of controversy and is an issue before a board of trustees, a county transportation committee, or the superintendent of public instruction, such residence shall be established on the basis of the general state residence law as provided in section 83-303, R.C.M., 1947. Where any district or county is determined to be responsible for paying tuition for any pupil in accordance with sections 74-6313, 75-6314, and 75-6316, the residence of the pupil for tuition purposes shall be the residence of such pupil for transportation purposes.

Basis for determining residence in controversy.

Section 294. Section 75-7017. **Determination of mileage distances.** When the mileage district that transportation services are to be provided is a matter of controversy and is an issue before a board of trustees, a county transportation committee or the superintendent of public

Basis for determining mileage district in controversy.

instruction, such mileage shall be established on the following basis. (1) The distance in mileage shall be measured by a vehicle equipped with an accurate odometer.

Measurement.

(2) A representative of the applicable district and a parent or guardian of the child to be transported shall be present when the distance is measured;

(3) The measurement shall begin six (6) yards from the family home and ends six (6) yards from the entrance of the school grounds closest to the route; and

(4) The route traversed for the measurement shall be the route designated by the trustees, except that such route shall be reasonably passable during the entire school fiscal year by the vehicle that provides the child's transportation. In determining reasonable passage, a route shall not be disqualified because it is impassable during temporary, extreme weather conditions such as rains, snow, or floods.

Route must be reasonably passable.

Section 295. Section 75-7018. **Schedule of maximum reimbursement by bus mileage rates.** The following bus mileage rates for school bus transportation constitute the maximum reimbursement to districts for school bus transportation from state and county sources of transportation revenue under the provisions of sections 75-7022 and 75-7023. These rates shall not limit the amount which a district may budget in its transportation fund budget in order to provide for the estimated and necessary cost of school bus transportation during the ensuing school fiscal year. The operation of any vehicle reimbursed under the rate provisions of this schedule shall be a school bus, as defined by this title, driven by a qualified driver on a bus route approved by the county transportation committee and the superintendent of public instruction.

Maximum reimbursement—bus mileage rates.

Determination.

(1) The rate per bus mile traveled shall be determined in accordance with the following schedule when the number of eligible transportees boarding such school bus on an approved route is not less than seventy-five per cent (75%) of its rated capacity:

(a) twelve cents ($.12) per bus mile for a school bus with a rated capacity of six (6) children or less:

(b) fifteen cents ($.15) per bus mile for a school bus with a rated capacity of not less than seven (7) but not more than eleven (11) children;

(c) twenty cents ($.20) per bus mile for a school bus with a rated capacity of not less than twelve (12) but not more than thirty (30) children; and

(d) when the rated capacity is more than thirty (30) children, an additional one-half cent ($.005) per bus mile for each additional child in the rated capacity in excess of thirty (30) shall be added to a base rate of twenty cents ($.20) per bus mile.

(2) When the number of eligible transportees boarding a school bus on an approved route is less than seventy-five per cent (75%) of its rated capacity, the rate per bus mile traveled shall be computed as follows:

(a) determine the number of eligible transportees boarding the school bus on such route;

(b) multiply the number determined in subsection (a) by twenty-five per cent (25%) and round-off to the nearest whole number;

(c) add the amount calculated in subsection (b) to the number determined in subsection (a) to determine the adjusted rated capacity for the bus; and

(d) use the adjusted rated capacity determined in subsection (c) as the rated capacity of such bus to determine the rate per bus mile traveled from the rate schedule in subsection (1) above.

The rated capacity shall be the number of riding positions of a school bus as determined under the policy adopted by the board of education.

Rated capacity defined.

Section 296. Section 75-7019. **Schedule of maximum reimbursement for individual transportation including provisions for isolation, room and board, and supervised study programs.** The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state and county sources of transportation revenue under the provisions of sections 75-7022 and 75-7023. These rates also shall constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall

Rates for maximum reimbursement—individual transportation.

Determination.

reimburse the parent or guardian on the basis of the following schedule: (1) When the parent or guardian pro-

Private conveyance.

vides the transportation conveyance, the following per diem rates shall be used to determine the total reimbursable amount for all eligible transportees residing in one household, including both elementary and high school pupils; except that eligible transportees shall be considered as coming from separate households when such eligible transportees are required by the trustees to attend schools in entirely separate communities and cannot be transported by the same conveyance or cared for in the same community. When the distance from the eligible transportee's residence to his assigned school is:

(a) not less than three (3) miles but less than five (5) miles, the rate shall be thirty cents ($.30) for one (1) eligible transportee and twelve cents ($.12) for each additional eligible transportee but shall not exceed sixty-six cents ($.66) for all the eligible transportees of one household;

(b) not less than five (5) miles but less than seven (7) miles, the rate shall be thirty-six cents ($.36) for one (1) eligible transportee and twelve cents ($.12) for each additional eligible transportee but shall not exceed eighty-four cents ($.84) for all the eligible transportees of one household.

(c) not less than seven (7) miles but less than twelve (12) miles, the rate shall be forty-eight cents ($.48) for one (1) eligible transportee and twelve cents ($.12) for each additional eligible transportee but shall not exceed one dollar and eight cents ($1.08) for all the eligible transportees of one household; or

(d) twelve (12) or more miles, the rate shall be sixty cents ($.60) for one (1) eligible transportee and twelve cents ($.12) for each additional eligible transportee but shall not exceed one dollar and twenty cents ($1.20) for all the eligible transportees of one household.

Private conveyance to school bus route.

(2) When the parent or guardian provides the transportation conveyance from the eligible transportee's residence to an approved route of the school bus designated by the trustees for the transportation of such eligible transportee, the per diem rates prescribed in subsection (1) shall be used to determine the reimbursable amount for such transportation on the basis of the distance from

the residence to such bus route. When the distance from the eligible transportee's residence to the approved bus route is not less than one and one-half (1½) miles but less than three (3) miles, the reimbursement rate shall be one-half (½) the rate prescribed in subsection (1) (a) above. No transportation reimbursement shall be paid to a parent or guardian when the distance is less than one and one-half (1½) miles.

(3) Where, due to excessive distances, impassable roads or other special circumstances of isolation, the rates prescribed in subsections (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, his parent or guardian may request an increase in the reimbursement rate. Such a request for increased rates due to isolation shall be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances which exist to justify the increase. Before any increase rate due to isolation can be paid to the requesting parent or guardian, such rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the county transportation committee and the superintendent of public instruction, the trustees shall pay such increased rate due to isolation. The board of education shall promulgate a schedule that allows varying percentage increases of the per-day individual transportation rates prescribed in subsections (1) and (2) in relation to the degree of isolation, except that such increases shall not exceed one hundred per cent (100%).

Inadequate reimbursement.

Request for increase.

Approval.

Isolation.

Schedule.

(4) When the isolated conditions of the household where an eligible transportee resides require such eligible transportee to live away from the household in order to attend school, he shall be eligible for the room and board reimbursement. Approval to receive the room and board reimbursement shall be obtained in the same manner prescribed in subsection (3) above. The per diem rate for room and board shall be one dollar and fifty cents ($1.50) for one eligible transportee, sixty cents ($.60) for a second eligible transportee of the same house-

Room and board.

Per diem rates.

hold and thirty cents ($.30) for each additional eligible transportee of the same household.

Home study.

(5) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate shall be the cost of such study; provided that the course of instruction is approved by the trustees and supervised by the district.

Approval.

Alteration of schedules.

(6) The schedules provided in this section shall not be altered by any authority other than the legislative assembly of the state of Montana, except as provided in subsection (3).

Section 297. Section 75-7020. **Budgeting for transportation and transmittal of transportation contracts.** The trustees of any district furnishing transportation to pupils who are residents of such disttrict shall have the authority and it shall be their duty to provide a transportation fund budget that is adequate to finance such district's transportation contractual obligations and any other transportation expenditures necessary for the conduct of its transportation program. The transportation fund budget shall include: (1) an adequate amount to finance the maintenance and operation of district owned and operated school buses;

Trustees duty to provide transportation fund budget.

Required amounts.

(2) the annual contracted amount for the maintenance and operation of school buses by a private party;

(3) the annual contracted amount for individual transportation, including any increased amount due to isolation, which shall not exceed the schedule amounts prescribed in section 75-7019;

(4) any amount necessary for the purchase, rental, or insurance of school buses; and

(5) any other amount necessary to finance the administration, operation or maintenance of the transportation program of the district, as determined by the trustees. The trustees may include a contingency amount in the transportation fund budget for the purpose of enabling the district to fulfill any obligation to provide transportation in accordance with the transportation law for any pupils not residing in the district at the time of the adoption of the preliminary budget and who subsequently became residents of such district during the school fiscal year or pupils who have become eligible transportees since the adoption of the preliminary budget because his legal residence has been changed. The budgeted contingency amount shall not exceed ten per cent (10%) of the transportation schedule amount as calculated under the provisions of sections 75-7018 and 75-7019 for all transportation services authorized by such schedule and provided by the district; unless ten per cent (10%) of such transportation schedule amount shall be less than one hundred dollars ($100), in which case one hundred dollars ($100) shall be the maximum limitation for such budgeted contingency amount.

Emergency transportation fund budget.

As provided in section 75-6724 an emergency transportation fund budget may be adopted subject to the provisions of the emergency budgeting law.

Reports.

Adoption.

Distribution of copies of contracts.

The transportation fund budgeted expenditures appropriated by the trustees shall be reported on the regular budget form prescribed by the superintendent of public instruction in accordance with section 75-6704 and the adoption of the transportation fund budget shall be completed in accordance with the school budgeting laws. When the adopted preliminary budget is sent to the county superintendent, the trustees also shall send copies of all completed transportation contracts for school bus transportation and individual transportation to the county superintendent. Such contracts shall substantiate all contracted transportation services incorporated in the preliminary budget; and, after the county superintendent has utilized the contracts for such purpose but before the fourth Monday of July, he shall send all the transportation contracts received by him to the superintendent of public instruction. When the county superintendent determines a deviation between the preliminary transportation fund budget amount for contracted transportation services and the contracted amount for such services, he shall immediately call the deviation to the attention of the appropriate trustees and shall allow the trustees to change the preliminary budgeted amount to compensate for such deviation.

Fourth Monday of July.

Deviation procedure.

Section 298. Section 75-7021. **Computation of revenues and net tax levy requirements for the transportation fund**

Before fourth Monday in July—computation of revenue.

budget. Before the fourth Monday of July and in accordance with section 75-6712, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis: (1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in sections 75-7018 and 75-7019 shall be determined by adding the following amounts:

Basis. "Schedule amount" determination.

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district. To determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such district; plus

(b) the total of all individual transportation per diem reimbursement rates for such district as determined from the contracts submitted by the district multiplied by the number of pupil instruction days scheduled for the ensuing school attendance year; plus.

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in section 75-7020, except if such amount exceeds ten per cent (10%) of the total of subsections (a), (b), and (c) or one hundred dollars ($100) whichever is larger, the contingency amount on the preliminary budget shall be reduced to such limitation amount and used in this determination of the schedule amount.

One-third used to determine available revenue.

(2) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, shall be divided by three (3) and the resulting one-third (1/3) amount shall be used to determine the available state and county revenue to be budgeted on the following basis:

(a) the resulting one-third (1/3) amount shall be the budgeted state transportation reimbursement except that the state transportation reimbursement for the transportation of special education pupils under the provisions of section 75-7815 shall be two-thirds of the schedule amount attributed to the transportation of special education pupils;

(b) the resulting one-third (1/3) amount except as provided for joint elementary districts in subsection (2) (e) shall be the budgeted county transportation reimbursement for elementary districts and shall be financed by the basic county tax under the provisions of section 75-6914;

(c) the resulting one-third (1/3) amount multiplied by two shall be the budgeted county transportation reimbursement amount for high school districts financed under the provisions of subsection (5) of this section except as provided for joint high school districts in subsection (2) (e) and except that the county transportation reimbursement for the transportation of special education pupils under the provisions of section 75-7815 shall be one-third (1/3) of the schedule amount attributed to the transportation of special education pupils;

Excess cash—reduction of financing obligation.

(d) when the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of such district revenue and cash reappropriated shall be used to reduce the county financing obligation in subsections (b) or (c) and, if such county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (a); and

Joint districts—proration.

(e) the county revenue requirement for a joint district, after the application of any district monies under subsection (2) (d) above, shall be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each such county.

Determination of monies for reduction of property tax.

(3) The total of the monies available for the reduction of property tax on the district for the transportation fund shall be determined by totaling:

(a) anticipated federal monies received under the provisions of Title I of Public Law 81-874 or other anticipated federal monies received in lieu of such federal act; plus

(b) anticipated payments from other districts for providing school bus transportation services for such district; plus

(c) anticipated payments from a parent or guardian for providing school bus transportation services for his child, plus

(d) anticipated interest to be earned by the investment of transportation fund cash in accordance with the provisions of subsection (4) of section 75-6806; plus

(e) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year which may be used to finance the transportation fund; plus

(f) any cash available for reappropriation as determined by subtracting the amount of the end-of-the-year cash balance earmarked as the transportation fund cash reserve for the ensuing school fiscal year by the trustees from the end-of-the-year cash balance in the transportation fund. Such cash reserve shall not be more than twenty per cent (20%) of the final transportation fund budget for the ensuing school fiscal year and shall be for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

Limitation on cash reserve—20% of final budget.

Computation of district levy.

(4) The district levy requirement for each district's transportation fund shall be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount and, for an elementary district, adding such difference to the district obligation to finance one-third (1/3) of the schedule amount as determined in subsection (2); and

(b) subtracting the amount of monies available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4) (a), above.

County levy requirement.

(5) The county levy requirement for the financing of the county transportation reimbursement to high school districts shall be computed by adding all such requirements for all the high school districts of the county, including the county's obligation for reimbursements in joint high school districts.

Report on second Monday in August.

(6) The transportation fund levy requirements determined in subsection (4) for each district and in subsection (5) for the county shall be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district and for the county, and such levies shall be made by the county commissioners in accordance with section 75-6717.

Section 299. Section 75-7022. **State transportation reimbursement.** Any district providing school bus transportation or individual transportation in accordance with the transportation law, board of education transportation policy, and superintendent of public instruction transportation rules and regulations shall receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of sections 75-7018 and 75-7019. The state transportation reimbursement shall not exceed one-third (1/3) of the reimbursement amounts established in such sections or one-third (⅓) of the district's transportation fund budget, whichever is smaller, and shall be computed on the basis of the number of days the transportation services were actually rendered. In determining the amount of the state transportation reimbursement, no amount claimed by a district shall be considered for reimbursement unless such amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

State reimbursement for transportation expenditures.

Limitation.

Computation.

Requests for the state transportation reimbursement shall be made by each district semiannually during the school fiscal year on the claim forms and procedure promulgated by the superintendent of public instruction. The claims for state transportation reimbursements shall be routed by the district to the county superintendent, who after reviewing such claims shall send them to the superintendent of public instruction. The superintendent of public instruction shall establish the validity and accuracy of the claims for the state transportation reimbursements by determining their compliance with the transportation law, board of education transportation policy, and the transportation rules and regulations of the superintendent of public instruction. After making any necessary adjustments to such claims, he shall cause their payment by ordering a disbursement from the state

Semiannual requests by districts.

Routing of claims.

Order of disbursement.

monies appropriated by the legislative assembly of the state of Montana for the state transportation reimbursement. Such payment of all the district's claims within one county shall be made to the county treasurer of such county and the county superintendent shall apportion such payment in accordance with the apportionment order supplied by the superintendent of public instruction.

Apportionment order.

Section 300. Section 75-7023. **County transportation reimbursement.** The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with the transportation law, board of education transportation policy, and the transportation rules and regulations of the superintendent of public instruction shall be the same as the state transportation reimbursement payment except that: (1) the high school apportionment of the county transportation reimbursement shall be twice the state transportation reimbursement payment;

County transportation reimbursement apportionment.

Exception.

Limitation.

(2) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of subsection (2) (d) of section 75-7021, the annual apportionment shall be limited to such budget amount;

Adjustment.

(3) when a district receives a state transportation reimbursement of two-thirds (2/3) the schedule amount for the transportation of special education pupils, the apportionment of the high school county transportation reimbursement shall be adjusted to provide only a one-third (1/3) high school county reimbursement of the transportation of special education pupils; and

(4) when the county transportation reimbursement for a school bus has been prorated between two (2) or more counties because such school bus is conveying pupils of more than one (1) district located in such counties, the apportionment of the county transportation reimbursement shall be adjusted to pay the amount computed under such proration.

Adjustment.

Source of funds.

The county superintendent shall apportion the elementary county transportation reimbursement from the proceeds of the county basic levy and the high school county transportation reimbursement from the proceeds of the county tax for high school transportation. The county superintendent shall order the county treasurer to make

Order to county treasurer.

such apportionments in accordance with subsection (2) of section 75-6805 and after the receipt of the semiannual state transportation reimbursement payments.

Section 301. Section 75-7024. **Bus depreciation reserve.** The trustees of any district owning a school bus or a two-way radio used for transportation purposes may establish a bus depreciation reserve fund for the purpose of replacing such bus or radio. When a bus depreciation reserve fund is established, the trustees may include in the district's budget, in accordance with the school budgeting provisions of this title, an amount each year that does not exceed twenty per cent (20%) of the original cost of a school bus or a two-way radio for transportation purposes. The annual revenue requirement for each district's bus depreciation reserve fund, determined within the limitations of this section, shall be reported by the county superintendent to the county commissioners on the second Monday of August as the bus depreciation reserve fund levy requirement for such district, and a levy shall be made by the county commissioners in accordance with section 75-6717.

Trustees may establish bus depreciation reserve.

Budget 20% of cost.

Report.

Second Monday in August. Levy.

Any expenditure of bus depreciation reserve fund monies shall be within the limitations of the district's final bus depreciation reserve fund budget and the school financial administration provisions of this title and shall be made only for the purchase of buses or radios to replace the buses or radios for which the bus depreciation reserve fund was created.

Expenditure for replacements.

Whenever the trustees of a district maintaining a bus depreciation reserve fund deem it to be within the best interests of the district to transfer any portion or all of the bus depreciation reserve cash balance to any other fund maintained by the district, it shall submit such proposition to the electors of the district. The electors qualified to vote at the election shall qualify under section 75-6410, and the election shall be called and conducted in the manner prescribed by this title for school elections. If a majority of those electors voting at the election approve the proposed transfer from the bus depreciation reserve fund, the transfer shall be approved and the trustees shall immediately order the county treasurer to make the approved transfer.

Transfer of funds.

Elector qualifications.

Election conduct.

Approval.

Order to county treasurer.

Section 302. Section 75-7101. **Applicable laws for**

Application of laws.

school district bonding. The school district bonding provisions of this title and all applicable laws of the state shall govern: (1) the issuance, refunding and sale of school district bonds; (2) the levying of taxes for payment of the principal and interest on school district bonds; and (3) the redemption of bonds. Should there be a conflict between the provisions of this title and the provisions of any other law of the state, the provisions of this title shall govern.

Conflict.

Section 303. Section 75-7102. **Definition of school district for bonding purposes.** For the purposes of indebting an elementary district or a high school district by the issuance of bonds under the provisions of this title, the term "school district" shall mean any elementary district or high school district except the following types of high schools recognized as high school districts without a bonding authority in section 75-6501: (1) High schools operated by an elementary district in a county that has not been divided into high school districts; or

"School district" defined.

Exceptions.

(2) County high schools located in a county that has not been divided into high school districts by the county high school boundary commission.

Section 304. Section 75-7103. **Trustees may issue bonds for certain purposes.** The trustees of a school district may issue and negotiate bonds on the credit of the school district for the purpose of: (1) building, altering, repairing, buying, furnishing, equipping a school, teacherage, dormitory, gymnasium, or other building for school purposes in the school district;

Trustees may issue bonds.

Purposes. Buildings.

Land acquisition.

(2) purchasing the necessary lands for a school, teacherage, dormitory, gymnasium, or other building for school purposes in the school district;

Water supply.

(3) securing a water supply for a school, teacherage, dormitory, gymnasium, or other building for school purposes in the school district;

School bus.

(4) buying a school bus;

Redemption of bonds.

(5) providing the necessary money to redeem matured bonds, maturing bonds, or coupons appurtenant to bonds when there is not sufficient money to redeem them;

Redemption of optional bonds.

(6) providing the necessary money to redeem optional or redeemable bonds when it is for the best interest of the school district to issue refunding bonds; or

Judgments.

(7) funding a judgment against the district.

Limitations on use of monies.

Any money realized from the sale of any bonds issued on the credit of a high school district shall not be used for any of the above purposes in an elementary school district, and such money may be used for any of the above purposes for a junior high school but only to the extent that the ninth grade of the high school is served thereby.

Maximum bond indebtedness.

Section 305. Section 75-7104. **Limitations on amount of bond issue.** The maximum amount for which each school district shall become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is five per cent (5%) of the assessed value of the taxable property therein as ascertained by the last completed asessment for state, county, and school taxes previous to the incurring of such indebtedness. The words "value of the taxable property therein" as used herein shall be given the same meaning and construction and are used in the same sense as in section 6 of article XIII of the state constitution. All bonds issued in excess of such amount shall be null and void.

5% of assessed value.

"Value of the taxable property therein" defined.

Authority to pay on cash basis.

When the total indebtedness of a school district has reached the five per cent (5%) limitation prescribed in this section, such school district shall have the power and authority to pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this title.

Application of monies.

Whenever bonds are issued for the purpose of refunding bonds, any monies to the credit of the debt service fund for the payment of the bonds to be refunded shall be applied towards the payment of such bonds and the refunding bond issue shall be decreased accordingly.

Definitions.

Section 306. Section 75-7105. **Definition of forms of bonds.** As used in this title, unless the context clearly indicates otherwise:

"Amortization bonds."

"Amortization bonds" means the form of bonds on which a part of the principal must be paid each time interest becomes payable. The part payment of principal increases at each installment in the same amount that the interest decreases. The combined interest and prin-

cipal due on each due date remains the same until the bonds are paid. The final payment may vary from prior payments in the amount resulting from disregarding fractional cents in prior payments.

"Serial bonds." "Serial bonds" means the form of bonds which are payable in annual installments and on which the amount to be redeemed each year is determined by dividing the total amount of the bonds by the term of the bond issue. However, the first or the first and second installments may vary from the others to the extent resulting from fixing the amounts of each bond of the other installments at one hundred dollars ($100), at five hundred dollars ($500) or at some multiple thereof.

Limitations on bonds issued. Section 307. Section 75-7106. **Form of bond to be issued.** All bonds issued by a school district shall be amortization bonds unless serial bonds, in the judgment of the trustees, will be more advantageous to the school district and can be sold at a comparatively reasonable rate of interest.

Term 20 years. Section 308. Section 75-7107. **Limitation of term and interest on bonds, and timing for redemption of bonds.** School district bonds shall not be issued for a term longer than twenty (20) years except that bonds issued to refund or redeem outstanding bonds shall not be issued for a term longer than ten (10) years unless the unexpired term of the bonds to be refunded or redeemed is in excess of ten (10) years in which case the refunding or redeeming bonds may be issued for such unexpired term. All bonds issued for a longer term than five (5) years shall be redeemable at the option of the school district five (5) years from the date of issue and on any interest payment due date thereafter before maturity and shall be so stated on the face of the bonds. The interest shall not exceed six per cent (6%) per annum and shall be payable semiannually.

Term 10 years—exception.

Optional redemption.

Interest limit—6% per annum.

All bonds dated in June or December. Section 309. Section 75-7108. **Dates of issue and payments.** In order that the dates of payment of installments on school district bond issues may coincide as nearly as possible with the largest monthly tax collections, all school district bonds shall preferably bear a date of some day in June or December. For this reason, the bonds may be dated back not more than five (5) months

Back dating 5 months.

from the time of the actual sale but no interest shall be charged on these bonds before they have been delivered to the purchaser and payment has been made by the purchaser. Interest accrued on such bonds according to their terms at the time of delivery shall either be refunded by the purchaser or deducted from the first interest payments. The failure to date such bonds in June or December shall not affect their validity.

Interest limitations.

Validity not affected.

Section 310. Section 75-7109. **Refunding bonds may be issued without an election.** Bonds of a school district issued for the purpose of providing the money needed to redeem outstanding bonds may be issued without submitting the proposition to the electorate at an election. In order to issue bonds for such purpose, the trustees, at a regular meeting or a duly called special meeting, shall adopt a resolution setting forth: (1) the facts regarding the outstanding bonds that are to be redeemed;

Resolution to issue new bonds for redemption of outstanding bonds. Required facts.

(2) the reasons for issuing new bonds; and

(3) the term and details of the new bond issue. After the adoption of such resolution, the trustees shall give notice of the sale of such new bonds in the same manner that notice is required to be given for the sale of bonds authorized at a school election. Such new bonds shall be sold in open competitive bidding, by written bids, or by sealed bids. Bonds shall not be refunded by the issuance of new bonds unless the rate of interest offered on the new bonds is at least one-half (½) of one per cent (1%) per annum less than the rate of interest in the bonds to be refunded or redeemed.

Notice of sale.

Sale by bid.

Limitation.

Section 311. Section 75-7110. **Election required to authorize the issuance of school district bonds and the methods of introduction.** A school district shall not issue bonds for any purpose other than that provided in section 75-7109 unless the issuance of bonds has been authorized by the qualified electors of the school district at an election called for the purpose of considering a proposition to issue such bonds. A school district bond election shall be called by a resolution as prescribed under the provisions of section 75-6406 when: (1) the trustees, of their own volition, adopt a resolution to that effect; or

Bond issuance authorized by election.

Resolution.

(2) the trustees have received a petition which asks that an election be held to consider a bond proposition

Petition.

and which has been validated under the provisions of section 75-7114.

Section 312. Section 75-7111. **Additional requirements for trustees resolution calling bond election.** In addition to the requirements for calling an election that are prescribed in sections 75-6406 and 75-6408, the trustees' resolution calling a school district bond election shall: (1) fix the exact amount of the bonds proposed to be issued, which may be more or less than the amounts estimated in a petition;

Mandatory facts in resolution.

(2) fix the maximum number of years in which the proposed bonds would be paid; and

(3) in the case of initiation by a petition, state the essential facts about the petition and its presentation.

Section 313. Section 75-7112. **Form, contents and circularization of petition proposing school district board election.** Any petition for the calling of an election on the proposition of issuing school district bonds shall: (1) plainly state each purpose of the proposed bond issue and the estimated amount of the bonds that would be issued for each purpose;

Mandatory requirements of petition.
Purpose.
Amount.

(2) be signed by not less than twenty per cent (20%) of the school district electors qualified to vote under the provisions of section 75-6411 in order to constitute a valid petition;

20% of electors sign.

(3) be a single petition or it may be composed of more than one petition, all being identical in form, and after being circulated and signed they shall be fastened together to form a single petition when submitted to the county registrar;

Single petition.

(4) be circulated by any one or more qualified electors of the school district; and

Circulation.

(5) contain an affidavit of each registered elector circulating a petition attached to the portion of the petition he circulated. Such affidavit shall attest to the authenticity of the signatures and that the signers knew the contents of the petition at the time of signing it.

Affidavit.

Section 314. Section 75-7113. **Validation of petition and county registrar's certificate.** The petitioners for a

school district bond election shall submit their petition to the county registrar of the county where the school district is located for validation of the signatures on the petition. The county registrar shall examine the petition and shall attach or endorse thereon a certificate which shall state: (1) the total number of electors of the school district who are, at the time, qualified to vote under the provisions of section 75-6411;

Validation.
County registrar's certificate—required statements.

(2) which and how many of the persons whose names are subscribed to the petition possess the qualifications to vote on a bond proposition; and

(3) whether the number of qualified signers established in subsection (2) is more or less than twenty per cent (20%) of the total number of qualified electors established in subsection (1).

After completing the examination, the county registrar shall immediately send the petition and his certificate to the school district. The county registrar shall not receive compensation for the examination of school district bond petitions.

Distribution.

Section 315. Section 75-7114. **Trustees' consideration of validated petition proposing bond election.** When a school district receives a school district bond petition from the county registrar, a meeting of the trustees shall be called for the consideration of the petition. The trustees shall be the judges of the adequacy of the petition and their findings shall be conclusive against the school district in favor of the innocent holder of bonds issued pursuant to the election called and held by reason of the presentation of such petition. The petition shall be valid if the trustees find that it is in proper form and bears the signatures of not less than twenty per cent (20%) of the school district electors who are qualified to vote under the provisions of section 75-6411.

Trustees shall consider petition.
Findings conclusive.
Validation.

Section 316. Section 75-7115. **Preparation and form of ballots for bond election.** The school district shall cause ballots to be prepared for all bond elections, and whenever bonds for more than one purpose are to be voted upon at the same election, separate ballots shall be prepared for each purpose. All such ballots shall be substantially in the following form:

Ballots.
Form.

OFFICIAL BALLOT

SCHOOL DISTRICT BOND ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BONDS—YES" if you wish to vote for the bond issue; if you are opposed to the bond issue make an X or similar mark in the square before the words "BONDS—NO."

Shall the board of trustees be authorized to issue and sell bonds of this school district in the amount of ..... dollars ($.....) bearing interest at a rate not more than six per cent (6%) per annum, payable semiannually, during a period not more than ..... years, for the purpose ..... (here state the purpose the same way as in the notice of election).

☐ BONDS—YES.

☐ BONDS—NO.

Conduct of election.

Notice form.

Section 317. Section 75-7116. **Notice of bond election by separate purpose.** Any school district bond election shall be conducted in accordance with the school election provisions of this title except that the election notice required therein shall be in substantially the following form:

NOTICE OF SCHOOL DISTRICT BOND ELECTION

Notice is hereby given by the trustees of School District No. ..... of ..... County, State of Montana, that pursuant to a certain resolution duly adopted at a meeting of the board of trustees of said school district held on the ..... day of ....., A.D., 19....., an election of the registered electors of School District No. ..... of ..... County, state of Montana, who are taxpayers therein and whose names appear on the last completed assessment roll for state, county and school district taxes prior to the holding of such election, will be held on the ..... day of ....., A.D., 19....., at ..... for the purpose of voting upon the question of whether or not the trustees shall be authorized to issue and sell bonds of said school district in the amount of ..... dollars ($.....), bearing interest at a rate not more than six per cent (6%) per annum, payable semiannually, for the purpose of ..... (here state purpose) ..... The bonds to

be issued will be either amortization or serial bonds, and amortization bonds will be the first choice of the board of trustees. The bonds to be issued, whether amortization or serial bonds, will be payable in installments over a period not exceeding ..... (state number) years.

The polls will be open from ..... o'clock ....m. and until ..... o'clock ....m. of the said day.

Dated and posted this ..... day of ....., A.D., 19.....

.....
Chairman of School District No. ..... of .....County, State of Montana

If the bonds proposed to be issued are for more than one purpose, then each purpose shall be separately stated in the notice together with the proposed amount of bonds therefor.

Each purpose separately stated.

Section 318. Section 75-7117. **Determination of approval or rejection of proposition at bond election.** When the trustees canvass the vote of a school district bond election under the provisions of section 75-6423, they shall determine the approval or rejection of the school bond proposition in the following manner: (1) determine the total number of electors of the school district who are qualified to vote under the provisions of section 75-6411 from the list of electors supplied by the county registrar for such bond election;

Canvass.

Trustees determine approval or rejection.

Procedure.

(2) determine the total number of qualified electors who voted at the school bond election from the tally sheet or sheets for such election;

(3) calculate the percentage of qualified electors voting at the school bond election by dividing the amount determined in subsection (2) by the amount determined in subsection (1); and

(4) when the calculated percentage in subsection (3) is forty per cent (40%) or more, the school bond proposition shall be deemed to have been approved and adopted if a majority of the votes shall have been cast in favor of such proposition, otherwise it shall be deemed to have have been rejected; or

(5) when the calculated percentage in subsection (3) is more than thirty per cent (30%) but less than forty

per cent (40%), the school bond proposition shall be deemed to have been approved and adopted if sixty per cent (60%) or more of the votes shall have been cast in favor of such proposition, otherwise it shall be deemed to have been rejected! or

(6) when the calculated percentage in subsection (3) is thirty per cent (30%) or less, the school bond proposition shall be deemed to have been rejected.

Trustees certificate.

If the canvass of the vote establishes the approval and adoption of the school bond proposition, the trustees shall issue a certificate proclaiming the passage of such proposition and the authorization to issue bonds of the school district for the purposes specified on the ballot for such school district bond election.

Within 60 days.

Section 319. Section 75-7118. **Trustees resolution to issue school district bonds.** Within sixty (60) days after the date of the election certificate or as soon thereafter as is practical in the judgment of the trustees, the trustees shall adopt a resolution providing for the issuance of bonds of the school district. Such resolution also shall specify: (1) the number of series or installments in which the bonds are to be issued:

Resolution.

Mandatory statements.

(2) the amount of bonds to be issued;

(3) the maximum rate of interest;

(4) the purpose or purposes of the issue;

(5) the date the issue will bear;

(6) the period of time through which the issue will be paid;

(7) the manner of execution of the bonds;

(8) that amortization bonds will be preferred but also fix the denomination of serial bonds; and

(9) the date and time that the sale of the bonds shall be conducted.

Notice of sale.

Section 320. Section 75-7119. **Notice of sale of school district bonds.** The trustees shall cause the notice of the sale of the bonds to be given. The notice shall state the purpose for which the bonds are to be issued and the amount proposed to be issued, and shall be substantially in the following form:

Form.

NOTICE OF SALE OF SCHOOL DISTRICT BONDS

Notice is hereby given by the trustees of School District No. ..... of ..... County, state of Montana, that the said trustees will on the ..... day of ....., 19....., at the hour of ..... o'clock ....m. at ....., in the said school district, sell to the highest and best bidder for cash, either amortization or serial bonds of the said school district in the total amount of ..... dollars ($.....), for the purpose of .....
.....

Amortization bonds will be the first choice and serial bonds will be the second choice of the trustees.

If amortization bonds are sold and issued, the entire issue may be put into one single bond or divided into several bonds, as the trustees may determine upon at the time of sale, both principal and interest to be payable in semiannual installments during a period of ..... years from the date of issue.

If serial bonds are issued and sold they will be in the amount of ..... dollars ($.....) each, except the first bond which will be in the amount of ..... dollars ($.....), the sum of ..... dollars ($.....) of the said serial bonds will become payable on the ..... day of ....., 19....., and the sum of ..... dollars ($.....) will become payable on the same day each year thereafter until all of such bonds are paid.

The bonds, whether amortization or serial bonds, will bear date of ....., 19....., and will bear interest at a rate not exceeding six per cent (6%) per annum, payable semiannually, on the ..... day of ..... (month) ..... and ..... (month) ..... in each year, and will be redeemable in full. (Here insert optional provisions, if any, to be recited on the bonds.)

The bonds will be sold for not less than their par value with accrued interest, and all bidders must state the lowest rate of interest at which they will purchase the bonds at par. Such bonds shall be sold in open competition bidding, by written bids, or by sealed bids. The trustees reserve the right to reject any and all bids and to sell the said bonds at private sale.

All bids other than by or on behalf of the state board of land commissioners must be accompanied by money,

a certified check, cashier's check, bank money order or bank draft, drawn and issued by a national banking association located in Montana or by any banking corporation incorporated under the laws of Montana, in the sum of ..... dollars ($.....) payable to the order of the district, which will be forfeited by the successful bidder in the event that he shall refuse to purchase the bonds.

All bids should be addressed to the undersigned district.

.....

Chairman, School District No. .....
of ..... County

Address: .....

ATTEST:

Subscribed and sworn to before me
this ..... day of ....., 19.....

.....

Notary Public for the State Re
siding at ....., Montana.

My Commission expires .....

Publication.

Section 321. Section 75-7120. **Publication of notice of sale of school district bonds.** The trustees shall cause a copy of the notice of sale of the bonds to be: (1) published once a week for four successive weeks preceding the date of the sale in a newspaper as determined by the trustees;

In state $10,000 or more.

(2) published once, not less than thirty (30) days prior to the date of sale, in some daily newspaper of the state that has a general circulation throughout the state when the bond issue to be sold is ten thousand dollars ($10,000) or more; and

Distribution.

(3) sent to the state board of land commissioners.

$10,000 or more—in city of New York.

If the bond issue to be sold is ten thousand dollars ($10,000) or more, the trustees may cause a brief notice to be published in some newspaper in the city of New York.

Meeting to consider bids—limitation.

Section 322. Section 75-7121. **Sale of school district bonds.** The trustees shall meet at the time and place fixed in the notice to consider bids on the bond issue. The bonds shall be sold at not less than par and accrued interest

Bidder shall specify form and rate of interest.

Bid preference.

and each bidder shall specify the form of bonds to be issued, whether amortization or serial, and the rate of interest at which he will purchase the bonds. A bid for amortization bonds shall have the preference over a bid for serial bonds, all other things being equal; and in considering bids on these classes of bonds, the trustees shall take into consideration not only the rate of interest demanded on each kind, but also every other known element affecting the total cost of the bonds to the district when paid in full. The trustees shall accept the bid which they shall judge most advantageous to the school district; provided, that no bid shall be accepted which will require the bonds to bear a rate of interest exceeding six per cent (6%) per annum. No attorney fees, brokerage or other fees, or commissions of any kind shall be paid to any person or corporation for assisting in the proceedings or in the preparation of the bonds, or in negotiating the sale. The trustees are authorized to reject any or all bids and to sell the bonds at private sale if they deem it for the best interests of the school district except that such bonds shall not be sold at less than par and accrued interest.

Acceptance of bid.

Limitation—rate of interest not to exceed 6% per annum.

Trustees may reject bids. Private sale.

Form of bonds.

Section 323. Section 75-7122. **Form and printing of school district bonds.** It shall not be necessary for the trustees to prescribe the detailed form of the bonds to be issued but the bonds must conform to all legal requirements for their payment, whether they are issued as amortization or serial bonds. The bonds and coupons shall be issued in the name of the school district and shall be executed by the chairman of the trustees and the school district clerk in accordancee with chapter 13 of title 59, R.C.M., 1947. If the bonds are purchased by the state board of land commissioners, all payments of principal or interest shall be made at the office of the state treasurer.

Issued in name of school district—execution.

Payments to state treasurer.

Printing.

The trustees shall cause the bonds, with the attached coupons, to be printed at the expense of the school district at the lowest commercial rates.

Bonds registered by county treasurer.

Section 324. Section 75-7123. **Registration of school district bonds by county treasurer and copy for preservation.** When the school district bonds have been duly executed by the chairman of the trustees and the school district clerk, all such bonds shall be registered by the county treasurer in his bond registration book before

such bonds are delivered to the purchaser. The bond registration shall show the number and amount of each bond, the date of issue, the redeemable date of each bond, the name of the purchaser, and the amount and due date of all payments required on the bonds.

Preservation of copies.

The trustees shall provide the county treasurer with an unsigned and canceled printed copy of each issue of school district bonds for preservation in the office of the county treasurer.

Section 325. Section 75-7124. **Delivery of school district bonds and disposition of monies realized from sale.**

Duties of county treasurer.

After the school district bonds have been registered, the county treasurer shall: (1) when the state board of land

Delivery of bonds—payment.

commissioners has purchased such bonds, forward the bonds to such state board which, in turn, shall cause the bonds to be sent to the state treasurer and shall cause the bonds to be paid for in the manner provided by law; or

(2) when the purchaser is anybody other than the state board of land commissioners, deliver the bonds to such purchaser when full payment of the bonds has been made by the purchaser.

Penalties for failure to pay monies from sale of bonds.

If any of the trustees shall fail or refuse to pay into the proper county treasury the money arising from the sale of any bonds, he shall be deemed guilty of a felony. If convicted, he shall be punished by imprisonment in the state prison for not less than one (1) year nor more than ten (10) years.

Deposit of monies.

All monies realized from the sale of school district bonds shall be paid to the county treasurer and he shall credit such monies to the building fund of the school district issuing such bonds; except monies realized for the purposes defined in subsection (5) and (6) of section 75-7103 shall be deposited in the debt service fund for

Availability.

the purchase of such bonds. The monies realized from the sale of school district bonds shall be immediately

Expenditure for purposes authorized.

available to such school district and the trustees may expend such monies without budgeted authorization for the purpose or purposes, but only for such purposes, for which the bonds were authorized by the school district bond election. Under the provisions of subsection (2) of

Trustees may invest.

section 16-2050, R.C.M., 1947, the trustees may invest such monies for which there is no immediate demand and

the interest earned by such investment shall be used in the manner provided therein. After the full accomplishment of the purpose or purposes of a bond issue, the excess monies realized from such bond issue shall be transferred to the debt service fund of the school district to be used for the redemption or purchase of bonds of such issue.

Transfer of excess monies.

Section 326. Section 75-7125. **County attorney to assist in the proceedings.**

Transcript of bond proceedings.

The trustees of any school district conducting bond proceedings shall prepare and maintain a transcript of their bond proceedings. It is a

Duty of county attorney to assist trustees.

part of the official duties of the county attorney of every county of this state to advise and assist the trustees of each school district of his county in its bond proceedings. Before any transcript of school district bond proceedings is sent to the state board of land commissioners, he shall carefully examine such transcript, and the transcript shall

Opinion of compliance.

not be sent until he has attached his opinion to the transcript that the proceedings are in full compliance with law.

Section 327. Section 75-7126. **School district liable on bonds.**

Pledge for repayment.

The full faith, credit and taxable resources of every school district issuing bonds under the provisions of this title are hereby solemnly pledged for the repayment of such bonds with interest according to their terms. For the purpose of making the provisions of this act enforceable every school district is hereby declared to

Body corporate.

be a body corporate which may sue and be sued by or in the name of the trustees of such school district.

Section 328. Section 75-7127. **Preparation of debt service fund budget.**

Trustees shall budget for repayment of bonds.

The trustees of each school district having outstanding bonds shall include in the debt service fund of the preliminary budget adopted in accordance with section 75-6707 an amount of money that is necessary to pay the interest and the principal amount becoming due during the ensuing school fiscal year for each series or installment of bonds, according to the terms and conditions of such bonds and the redemption plans of the trustees. The county superintendent shall

Duties of county superintendent.

compare the preliminary budgeted amount for the debt service fund with the bond retirement and interest requirement for the school fiscal year just beginning as reported by the county treasurer in his statement supplied under the provisions of section 75-6710. If the

county superintendent finds that the requirement stated by the county treasurer is more than the preliminary budget amount, the county superintendent shall increase the budgeted amount for interest or principal in the debt service fund of the preliminary budget. The amount confirmed or revised by the county superintendent shall be the final budget expenditure amount for the debt service fund of such school district.

Final budget for debt service fund.

Section 329. Section 75-7128. **Computation of net levy requirement for debt service fund and proceedings if board of county commissioners fail to make adequate levy.** The county superintendent shall compute the levy requirement for each school district's debt service fund on the basis of the following procedure: (1) Determine the total monies available in the debt service fund for the reduction of the property tax on the district by totaling:

County superintendent shall compute levy—procedure.

(a) the end-of-the-year cash balance, less any outstanding warrants in the debt service fund;

(b) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of subsection (4) of section 75-6806 or by the investment of bond proceeds under the provisions of section 75-7124; and

(c) any other monies anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from such sources as legally authorized money transfers into the debt service fund or from rental income.

(2) The total amount available to reduce the property tax, determined in subsection (1), shall be subtracted from the final budget expenditure amount for the debt service fund as established in section 75-7127.

Report to county—second Monday in August.

(3) The net debt service fund levy requirement determined in subsection (2) shall be reported to the county commissioners on the second Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy shall be made by the county commissioners in accordance with section 75-6717.

Levy.

Insufficient levy.

If the board of county commissioners shall fail in any school fiscal year to make a levy for any issue or series

of bonds of any school district sufficient to raise the monies necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in such amounts as are established under the provisions of this section, the holder of any bond of such issue or series or any taxpayer of the district may apply to the district court of the county in which such school district is located for a writ of mandate to compel the board of county commissioners of such county to make a sufficient levy for such purposes. If, upon the hearing of such application, it shall appear to the satisfaction of the court that the board of county commissioners of such county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of such deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in such school district that is sufficient to raise the amount of such deficiency. Such levy shall be in addition to any levy required to be made at that time for the then ensuing school fiscal year. Any costs which may be allowed or awarded the petitioner in any such proceeding shall be paid by the members of the board of county commissioners, and shall not be a charge against the school district or the county.

Application for writ of mandate.

Hearing.

Court shall require sufficient levy.

Costs.

Section 330. Section 75-7129. **Payment of debt service obligations by county treasurer and termination of interest.** The county treasurer shall maintain a separate debt service fund for each school district, and shall credit all tax monies collected for debt service to such fund and use the monies credited to such fund for the payment of debt service obligations in accordance with the school financial administration provisions of this title.

Separate debt service fund for each district.

The county treasurer shall pay from the debt service fund all amounts of interest and principal on school district bonds as such interest or principal becomes due when the coupons or bonds are presented and surrendered for payment. If the bonds are held by the state of Montana, then all payments shall be remitted to the state treasurer who shall cancel the coupons or bonds and return such coupons or bonds to the county treasurer with his re-

Payments on school bonds.

Remittance procedure.

ceipt. If the bonds are not held by the state of Montana, and the interest or principal is made payable at some designated bank or financial institution, the county treasurer shall remit the amount due for interest or principal to such bank or financial institution for payment against the surrender of the canceled coupons or bonds.

Interest due.

Whenever any school district bond, or installment on school district bonds, shall become due and payable, interest shall cease on such date unless sufficient funds are available to pay such bond when it is presented for payment or when payment of an installment is demanded. In either case, interest on such bond or installment shall continue until payment is made.

Installments due.

6% per annum.

Any installment on interest and principal on bonds held by the state, that is not promptly paid when due, shall draw interest at an annual rate of six per cent (6%) from the date due until actual payment, irrespective of the rate of interest on the bonds.

Redemption of bonds.

Section 331. Section 75-7130. **Redemption of bonds and investment of debt service fund monies.** Whenever there is a sufficient amount of money in any school district debt service fund available to pay and redeem one or more bonds of such school district held by the state of Montana, the county treasurer shall apply such money in payment of as many of such bonds as can be paid and redeemed. The county treasurer shall give notice not less than thirty (30) days before the next interest due date to the state board of land commissioners that on such interest due date such bond or bonds will be paid. Before such interest due date, the county treasurer shall remit to the state treasurer the amount of money that is necessary to pay the bond or bonds that are being redeemed and the interest due on such bonds. When the state treasurer receives such payment, he shall cancel such bond or bonds and any unpaid coupons of such bonds, and return the canceled bonds and coupons to the county treasurer.

County treasurer shall give notice—30 days.

Remittance procedure.

Redemption of optional bonds.

Whenever there is a sufficient amount of money in any school district debt service fund available to pay and redeem one or more optional bonds of such school district not held by the state of Montana, not yet due but then redeemable, or becoming redeemable on the next interest due date, the county treasurer shall apply

such available money in payment of as many of such bonds as can be paid and redeemed. The county treasurer shall give notice to the holder of the bond or bonds, if known to him, or to any bank or financial institution at which the bonds are payable, at least thirty (30) days before the next interest due date, that the bond or bonds will be paid and redeemed on such date. If the bonds are payable at some bank or financial institution, the county treasurer shall remit to the bank or financial institution, before such interest due date, an amount sufficient to pay and redeem the bond or bonds. If the bond or bonds are not presented for payment and redemption on such interest due date, the accrual of interest shall cease on such interest due date.

Notice.

30 days.

Remittance procedure.

Whenever there is money available in any school district debt service fund sufficient to pay and redeem one or more outstanding bonds not yet due or redeemable and not held by the state of Montana, the trustees of such school district may direct the county treasurer to purchase such bond or bonds of the district if this can be done at not more than par and accrued interest or at such reasonable premium as the trustees may feel justified in paying but in no case exceeding six per cent (6%).

Trustees may direct purchase of bonds not due.

Whenever the trustees cannot purchase outstanding bonds of the school district at a reasonable price, the available debt service fund monies shall be invested by the trustees under the provisions of subsection (4) of section 75-6806. Such investments shall be sold in ample time before the debt service fund monies are required for the payment of the bonds of the school district.

Investment of funds.

Section 332. Section 75-7131. **Entries of payments and notification of school district.** The county treasurer shall make the necessary entries of all payments of interest and principal on his bond registration record and shall promptly notify the clerk of the school district when such payments are made. The county treasurer also shall deliver the canceled coupons and bonds to the county clerk at the end of each month. The county clerk shall file such canceled coupons and bonds in his office.

Duties of county treasurer—entries.

Canceled coupons and bonds.

Section 333. Section 75-7132. **Disposition of monies remaining in debt service fund.** When all of the bonds and bond interest of any school district have been fully paid, all money remaining in the debt service fund for

Transfer of monies.

such school district and all monies which may come into such debt service fund from the payment of the delinquent taxes shall be transferred by the county treasurer to the general fund of such school district.

County bonding—county high school.

Section 334. Section 75-7133. **County bonding for county high school not placed in high school district.** Sections 75-7134 through 75-7138 shall be used for the purposes of indebting a county for county high school facilities when the county high school in such county has not been placed in a high school district by the high school boundary commission of the county. The provisions of such sections shall not be available to any county high school that has been placed in a high school district or to any other high school or district.

Exception.

Issuance of bonds.

Purposes.

Buildings.

Section 335. Section 75-7134. **Purposes and petition for county high school bonds.** Any county where a county high school that has not been placed in a high school district is located may become indebted by the issuance of bonds for the purposes of: (1) purchasing or erecting a building or buildings for high school purposes;

Renovation.

(2) remodeling, enlarging, or repairing a building or buildings for high school purposes;

Equipment.

(3) purchasing equipment for high school purposes;

Facilities.

(4) purchasing, erecting, or equipping a high school dormitory or gymnasium;

Sites.

(5) purchasing a suitable site or sites for such high school building; or

Outstanding bonds.

(6) refunding or redeeming any oustanding bonds originally issued for any of the foregoing purposes.

Petition by 20% of electors.

Requirements.

Trustees shall request election.

In order to initiate any bonding proposition for the above purposes, a petition signed by not less than twenty per cent (20%) of the electors of the county who are qualified under section 75-6411 shall be presented to the trustees of the county high school. Such petition shall request the submission of a bond proposition to the qualified electors of the county, and shall specify the purpose or purposes of the proposed bond issue and the amount of bonds to be issued. Such petition shall conform with the petition requirements prescribed in section 75-7112. If the trustees of the county high school approve a validated petition for a bond proposition, they shall request

the board of county commissioners of the county to submit such bond proposition to the qualified electors of the county.

Duty of board to hold election.

Approval.

Section 336. Section 75-7135. **Duty of board of county commissioners to call election and issue bonds.** Immediately upon the receipt of any bond proposition request from the trustees of the county high school, it shall be the duty of the board of county commissioners to submit such question to the qualified electors of the county in the manner otherwise provided by law for the submission of the proposition of the issuance of other county bonds. If a majority of the qualified electors of the county, voting upon the proposition so submitted, shall approve such issue, then the board of county commissioners shall issue and market the bonds authorized as in the case of other county bonds.

County bonds.

Proration of proceeds.

Computation.

Limitation.

Approval by election.

Section 337. Section 75-7136. **Proration of county bond proceeds between high schools of the county.** In any county where a county high school is located and such county high school is not located in a county that has been divided into high school districts and another high school is maintained by an elementary district of the county, bonds of the county may likewise be issued in accordance with the provisions of sections 75-7134 and 75-7135. The proceeds of such issue shall be divided among the county high school and the districts maintaining a high school. The question submitted to the electors of the county shall state the amount which is to be allotted to the county high school and the amount which is to be apportioned to or among such districts. In all such cases, the amount allotted to the county high school and the amount to be apportioned among the districts shall be computed upon the basis of the taxable valuation of the county that is used for county high school property taxation purposes and the taxable valuation of the districts maintaining a high school. Any such bond monies apportioned to a district shall not be expended until the purpose for the expenditure has been approved by a vote of the qualified electors at an election held in the same manner prescribed for a school district bond election.

Payment—county bonds.

Section 338. Section 75-7137. **Payment of county bonds.** All bonds authorized and issued for a county high school not located in a high school district shall be paid,

both principal and interest, in the manner provided by law for the payment of other bonds of the county.

Issued bonds. Budget prohibited.

Section 339. Section 75-7138. **Budget prohibition when county bonds issued.** In all cases where bonds of the county are issued for county high school purposes, the trustees of the county high school shall not budget for any item of expense or disbursement for the purposes for which such county bonds have been issued.

Schedule for elementary tuition. $275 per pupil.

Section 340. Section 75-7201. **Elementary tuition rates.** Whenever a pupil of an elementary district has been granted approval to attend a school outside of the district in which he resides, under the provisions of section 75-6313 or 75-6314, such district shall pay tuition to the elementary district where the pupil attends school on the basis of the following schedule: (1) two hundred seventy-five dollars ($275) per pupil when the ANB of the attended school is one hundred (100) or less;

(2) two hundred fifty dollars ($250) per pupil when the ANB of the attended school is more than one hundred (100) but less than three hundred one (301); or

$225 per pupil.

(3) two hundred twenty-five dollars ($225) per pupil when the ANB of the attended school is three hundred one (301) or more.

July 15—tuition report requirements.

Section 341. Section 75-7202. **End of term tuition report and notification of resident elementary district.** At the close of the school term of each school fiscal year and before the fifteenth (15th) day of July, the trustees of each elementary district shall report to the county superintendent: (1) the names of the pupils attending the schools of the district under an approved tuition agreement with the district of residence of each pupil;

(2) the number of days of school attended by each pupil; and

(3) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, may waive. Any waiver of tuition shall be applied equally to all pupils.

Distribution of tuition report.

When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the county superintendent of each county in which the reported pupils reside. In turn, every

county superintendent shall notify each elementary district of his county of the tuition amounts owed to other elementary districts of the county or outside of the county. Such amounts shall be established from the tuition rate stated in each pupil's tuition agreement and from the information reported by the district in which the pupil attended school. No tuition shall be due when a pupil attends less than forty (40) days of school in such district.

Limitation—less than 40 days attendance.

Payment. Preliminary budget.

Section 342. Section 75-7203. **Budgeting, levy requirement and paying elementary tuition.** The tuition amount that has been established in section 75-201 shall be paid during the ensuing school fiscal year. The trustees of the elementary district shall include such amount in the tuition fund of the preliminary budget. If the trustees should fail to include such amount or any portion of it in the preliminary budget, the budget board shall adjust the budgeted amount in adopting the final budget to provide for the total tuition amount that is due during the ensuing school fiscal year. Such adjustment shall not be subject to the budget adjustment provisions of section 75-6714.

Adjustment final budget.

Tuition report—second Monday in August.

The county superintendent shall report the net tuition fund levy requirement for each elementary district to the county commissioners on the second Monday of August, and a levy on the district shall be made by the county commissioners in accordance with section 75-6717.

Calculation of levy.

Such levy requirement shall be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget, the sum of the cash balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated monies that may be realized in the tuition fund.

Payment by warrants.

The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification provided under the provisions of section 75-7201. Such payments shall be made whenever there is a sufficient amount of cash available in the tuition fund, but no later than the end of the school fiscal year for which the budget was adopted.

Trustees shall establish retirement fund.

Section 343. Section 75-7204. **Retirement fund.** The trustees of any district employing personnel who are members of the teachers retirement system or the public

Purpose.

Calculation—employer's contributions.

employees retirement system shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to such retirement systems. The district's contribution for each employee who is a member of the teachers retirement system shall be calculated in accordance with section 75-6207. The district's contribution for each employee who is a member of the public employees retirement system shall be calculated in accordance with section 68-603, R.C.M., 1947.

Inclusion in preliminary budget.

Payment.

The trustees of any district required to make a contribution to either retirement system shall include in the retirement fund of the preliminary budget the estimated amount of the employer's contribution and such additional monies, within legal limitations, as they may wish to provide for the retirement fund cash reserve. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to such retirement systems in accordanc with the financial administration provisions of this title.

Calculation of levy requirement.

When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by: (1) determining the sum of the monies available to reduce the retirement fund levy requirement by adding:

(a) any anticipated monies that may be realized in the retirement fund during the ensuing school fiscal year; and

(b) any cash available for reappropriation as determined by subtracting the amount of the end-of-the-year cash balance earmarked as the retirement fund cash reserve for the ensuing school fiscal year by the trustees from the end-of-the-year cash balance in the retirement fund. The retirement fund cash reserve shall not be more than thirty-five per cent (35%) of the final retirement fund budget for the ensuing school fiscal year and shall be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget.

Reserve limitation —35%.

Purpose.

(2) subtracting the total of the monies available for reduction of the levy requirement as determined in subsection (1) from the budgeted amount for expenditures in the final retirement fund budget.

Report to county commissioners

second Monday in August.

Levy.

The net retirement fund levy requirement for each elementary district shall be reported to the county commissioners on the second Monday of August by the county superintendent, and a levy on each elementary district shall be made by the county commissioners in accordance with section 75-6717.

Report second Monday in August.

Levy.

The county superintendent shall total the net retirement fund levy requirements of all high school districts of the county, including any prorated joint high school district levy requirements, and shall report such levy requirement to the county commissioners on the second Monday of August as the county levy requirement for high school district retirement funds. The county commissioners shall fix and set such county levy in accordance with section 75-6717.

Joint high school district proration.

The net retirement fund levy requirement for a joint high school district shall be prorated to each county in which a part of such district is located in the same proportion as the high school ANB of the joint high school district is distributed by pupil residence in each such county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in section 75-6721.

Section 344. Section 75-7205. **Purpose and authorization of a building reserve fund by an election.** The trustees of any district, with the approval of the qualified electors of the district, may establish a building reserve for the purpose of raising money for the future construction, equipping or enlarging of school buildings or other buildings needed for school purposes in the district. In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies: (1) the purpose or purposes for which the new or addition to the building reserve will be used;

Trustees may establish building reserve.

Purposes.

Resolution requirements.

(2) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;

(3) the total amount of money that will be raised

during the duration of time specified in subsection (2); and

(4) any other requirements under section 75-6406 for the calling of an election.

Limitations.

The total amount of building reserve when added to the outstanding indebtedness of the district shall not be more than five per cent (5%) of the value of the taxable property of the district. Such limitation shall be determined in the manner provided in section 75-7104. A building reserve tax authorization shall not be for more than twenty (20) years.

5%.

20 years.

Election.

The election shall be conducted in accordance with the school election laws of this title and the electors qualified to vote in the election shall be qualified under the provisions of section 75-6411. The ballot for a building reserve proposition shall be substantially in the following form:

Ballot form.

OFFICIAL BALLOT

SCHOOL DISTRICT BUILDING RESERVE ELECTION

INSTRUCTION TO VOTERS: Make an X or similar mark in the vacant square before the words "BUILDING RESERVE—YES" if you wish to vote for the establishment of a building reserve (addition to the building reserve); if you are opposed to the establishment of a building reserve (addition to the building reserve) make an X or similar mark in the square before the words "BUILDING RESERVE—NO."

Shall the trustees be authorized to impose an additional levy each year for ..... years to establish a building reserve (add to the building reserve) of this school district to raise a total amount of ..... dollars ($.....) for the purpose(s) ..... (here state the purpose or purposes for which the building reserve will be used).

☐ BUILDING RESERVE—YES.

☐ BUILDING RESERVE—NO.

Approval by majority vote.

The building reserve proposition shall be approved if a majority of those electors voting at the election approve the establishment of or addition to such building reserve. The annual budgeting and taxation authority

of the trustees for a building reserve shall be computed by dividing the total amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve shall lapse when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve shall be used for such purpose or purposes before any money realized by the bond issue is used.

Computation.

Lapse on bond issue.

Use of monies.

Section 345. Section 75-7206. **Budgeting, tax levy and use of the building reserve fund.** Whenever an annual building reserve authorization to budget is available to a district, the trustees shall include such authorized amount in the building reserve fund of the preliminary budget. The county superintendent shall report such amount as the building reserve fund levy requirement to the county commissioners on the second Monday of August, and a levy on the district shall be made by the county commissioners in accordance with section 75-6717.

Inclusion—preliminary budget report second Monday in August.

Levy.

The trustees of any district maintaining a building reserve fund shall have the authority to expend monies from such fund for the purpose or purposes for which it was authorized without such specific expenditures being included in the final budget when, in their discretion, there is a sufficient amount of money to commence the authorized projects. Such expenditures shall not invalidate the district's authority to continue the annual imposition of the building reserve taxation authorized by the electors of the district.

Expenditures.

Validity.

Whenever there is money credited to the building reserve fund for which there is no immediate need, the trustees may invest such money in accordance with subsection (4) of section 75-6806. The interest earned from the investment shall be credited to the building reserve fund or the debt service fund, at the discretion of the trustees, and expended for any purpose authorized by law for such fund.

Investments.

Interest earned.

Section 346. Section 75-7207. **Adult education fund.** Whenever the trustees of any district establish an adult

education program under the provisions of section 75-7513, they shall establish an adult education fund under the provisions of section 75-7515. The adult education fund shall be the depository for all federal, state and district monies received by the district in support of the adult education program.

Adult education fund.

Levy.

The trustees of any district may authorize the levy of a tax of not more than one (1) mill on the district for the operation of an adult education program when the superintendent of public instruction has approved the educational program to be supported by such levy. The approval of the superintendent of public instruction shall have been acquired by the trustees before the fourth Monday of June in order to include the expenditures to be financed by the levy in the preliminary budget. The superintendent of public instruction shall promulgate rules and forms for such approval.

Approval.

Fourth Monday in June.

Rules and forms.

Whenever the trustees of any district decide to offer an adult education program during the ensuing school fiscal year, they shall budget for the cost of such program in the adult education fund of the preliminary budget. Any expenditures in support of the adult education program under the final adult education budget shall be made in accordance with the financial administration provisions of this title for a budgeted fund.

Preliminary budget.

When a tax levy for an adult education program which has been approved by the superintendent of public instruction is included as a revenue item on the final adult education budget, the county superintendent shall report such levy requirement to the county commissioners on the second Monday of August, and a levy on the district shall be made by the county commissioners in accordance with section 75-6717.

Report.

Second Monday in August.
Levy.

Section 347. Section 75-7208. **Post-secondary vocational-technical center fund.** Whenever an approved post-secondary vocational-technical center under the provisions of section 75-7707 is operated within a district, the trustees of such district shall establish a post-secondary vocational-technical center fund. All monies prescribed and received under the provisions of section 75-7709 shall be credited to the post-secondary vocational-technical center fund. The expenditure of the monies deposited in the post-secondary vocational-education center fund shall be made under

Approved post-secondary-vocational-technical center fund.

Expenditures.

the budget and for the programs approved by the board of education under the provisions of section 75-7708 and the financial administration provisions of this title.

The approval of the post-secondary vocational-technical center budget and subsequent revision or amendment of such budget by the board of education shall constitute the final budget approval and the inclusion of such fund in the district's preliminary budget and the final budget, approved by the budget board, shall not be required.

Final budget approval.

Whenever the county tax prescribed in subsection (2) of section 75-7709 is to be used in support of the post-secondary vocational-technical center fund budget, the county commissioners are authorized to levy such tax on the county in accordance with the provisions of section 75-6717.

Levy.

Section 348. Section 75-7209. **Purpose and establishment of non-operating fund.** The trustees of any district that will not operate any school during the ensuing school fiscal year shall establish a non-operating fund on the first day of such school fiscal year. In establishing the non-operating fund, the trustees shall cause the transfer of the end-of-the-year cash balance of each fund maintained by the district during the immediately preceding school fiscal year to the non-operating fund. However cash balances of the debt service fund and the miscellaneous federal programs fund, if any, shall be maintained in their individual funds.

Non-operating school fund.

Transfer of monies.

Limitations.

The trustees of a district establishing a non-operating fund for the first year of non-operation may earmark a portion of the non-operating fund cash balance as a a non-operating fund cash reserve when they anticipate the reopening of a school in the following school fiscal year. Such cash reserve shall not be more than the general fund cash reserve designated for the immediately preceding school fiscal year. If a school is not operated in the following school fiscal year, the authority of the trustees to earmark a non-operating fund cash reserve shall terminate and the monies earmarked as a cash reserve shall be used to reduce the levy requirement of the non-operating fund. If the trustees acquire approval to reopen a school in the following school fiscal year under the provisions of section 75-6602 or 75-6603 and operate

Cash reserve.

Limitations.

Reduction of levy.

Restoration of monies.

such school, the non-operating fund cash reserve shall be restored as the general fund cash reserve.

Purposes.

The purpose of the non-operating fund shall be to centralize the financing and budgeting for the limited functions of a district not operating a school. Such functions shall include: (1) elementary tuition obligations to other districts;

(2) transportation of the resident pupils;

(3) maintenance of district owned property; and

(4) any other non-operating school function of the district deemed necessary by the trustees or required by law.

Expenditures.

Any expenditure of non-operating fund monies shall be made in accordance with the financial administration provisions of this title for a budgeted fund.

Section 349. Section 75-7210. **Budgeting and net levy requirement for non-operating fund.** The trustees of any district which does not operate a school or will not operate a school during the ensuing school fiscal year shall

Non-operating school district budget.

adopt a non-operating school district budget in accordance with the school budgeting provisions of this title. Such non-operating budget shall contain the non-operating fund and, when appropriate, a debt service fund. The

Form.

non-operating budget form shall be promulgated and distributed by the superintendent of public instruction under the provisions of section 75-6704.

Computation of levy requirement.

After the adoption of a final budget for the non-operating fund, the county superintendent shall compute the net levy requirement for such fund by subtracting from the amount authorized by such budget the sum of: (1) The end-of-the-year cash balance of the non-operating fund or, if it is the first year of non-operation, the cash balance determined under the transfer provisions of section 75-7209;

(2) the estimated state and county transportation reimbursements; and

(3) any other monies that may become available during the ensuing school fiscal year.

Report.

The county superintendent shall report the net non-operating fund levy requirement and any net debt service

fund levy requirement determined under the provisions of section 75-7128 to the county commissioners on the second Monday of August, and such levies shall be made on the district by the county commissioners in accordance with section 75-6717.

Second Monday in August. Levies.

Section 350. Section 75-7211. **School food services fund.** The trustees of any district offering school food services shall establish a school food services fund under the provisions of section 75-8005. Such fund shall be a non-budgeted fund and shall be financially administered under the provisions of this title for a non-budgeted fund.

School food services fund.

Non-budgeted.

Section 351. Section 75-7212. **Miscellaneous federal programs fund.** The trustees of any district receiving federal monies other than monies under the provisions of Title I of Public Law 81-874 or federal monies designated for deposit in a specific fund of the district shall establish a miscellaneous federal programs fund for the deposit of such federal monies. Such federal monies may be a reimbursement of expenditures already realized by the district, or may be a grant of monies for the financing of expenditures to be realized by the district for a special, approved program to be operated by the district. When the federal monies are a reimbursement, the monies shall be expended at the discretion of the trustees for school purposes. When the federal monies are a grant, the monies shall be expended according to the conditions of the program approval by the superintendent of public instruction or any other approval agent. Within the miscellaneous federal programs fund, the trustees shall cause a separate accounting to be maintained for each federal grant program and for the aggregate of all federal reimbursement monies.

Miscellaneous federal programs fund.

Expenditures.

Separate accounting.

The financial administration of the miscellaneous federal programs fund shall be in accordance with the financial administration provisions of this title for a non-budgeted fund which shall be applied by individual federal grant programs or for the aggregate amount of the federal reimbursement monies rather than on the basis of the total fund.

Financial administration.

Section 352. Section 75-7213. **Building fund.** The trustees of any district shall establish or credit the building fund whenever such district: (1) issues and sells bonds under the school district bonding provisions of this

District building fund—source of monies.

title for purposes other than refunding bonds of the district;

(2) receives federal money for the express purpose of building, enlarging or remodeling a school building or other building of the district;

(3) sells property of the district in accordance with the law authorizing such sale;

(4) receives money as an insurance settlement for the destruction of any property or portion of property insured by the district;

(5) earns interest from the investment of building fund monies under the provisions of subsection (4) of section 75-6806 except interest earned from the investment of bond monies under the provisions of section 75-7124 shall be credited to a fund in accordance with such section; or

(6) receives any other monies for the express purpose of building, enlarging or remodeling a school building or other building of the district.

Financial administration.

The financial administration of the building fund shall be in accordance with the financial administration provisions of this title for a non-budgeted fund, and shall

Separate accounting.

provide for a separate accounting of the monies realized by each bond issue or by each construction project financed by a federal grant of monies. Any other monies to the credit of this fund shall be expended for building, enlargement, remodeling or repairing of buildings of the district at the discretion of the trustees.

Expenditures.

Monies credited to the building fund under the provisions of subsection (1) of this section shall be expended

Authorized purposes of bond issuance.

for the express purpose or purposes authorized by the bond proposition approved at the election authorizing the issuance of such bonds. Any money realized by the sale of bonds and remaining to the credit of the building fund after the full accomplishment of the purpose for which the

Transfer of monies.

bonds were sold, shall be transferred to the debt service fund to be used for the redemption of bonds of such issue.

Monies credited to the building fund under the provisions of subsection (2) of this section shall be expended

Authorized purposes of federal grants.

for the express purpose or purposes authorized by the federal government in granting such monies.

Housing and dormitory fund.

Section 353. Section 75-7214. **Housing and dormitory fund.** The trustees of any district that provides pupil or teacher housing in district owned buildings under a lease or rental agreement with pupils or teachers shall establish a housing and dormitory fund. All monies received from such lease or rental agreements shall be deposited with the county treasurer to the credit of the housing and dormitory fund, general fund, or the debt service fund. Whenever the end-of-the-year cash balance of the housing and dormitory fund is more than three thousand dollars ($3,000), such cash balance in excess of three thousand dollars ($3,000) shall be transferred to the general fund of the district.

Deposit of monies.

Transfer of monies in excess of $3,000.

Expenditures.

Any expenditure of monies from the housing and dormitory fund shall be made for the maintenance and operation of the district owned buildings to which the lease or rental agreements apply or for the acquisition of additional housing or dormitory facilities. The financial administration of the housing and dormitory fund shall be in accordance with the financial administration provisions of this title for a non-budgeted fund.

Financial administration.

Traffic education fund.

Section 354. Section 75-7215. **Traffic education fund.** The trustees of any district offering a state reimbursed traffic education program shall establish a traffic education fund under the provisions of section 75-7907. Such fund shall be a non-budgeted fund and shall be financially administrated under the provisions of this title for a non-budgeted fund.

Non-budgeted.

Interlocal cooperative fund.

Section 355. Section 75-7216. **Interlocal cooperative agreement fund.** The trustees of any district serving as a prime agency under an interlocal cooperative agreement shall establish an interlocal cooperative fund under the provisions of section 75-7306 for the financial administration of the interlocal cooperative agreement. Such fund shall be a non-budgeted fund and shall be financially administered under the provisions of this title for a non-budgeted fund.

Non-budgeted.

Public school fund maintained as subfund in trust and legacy fund.

Section 356. Section 75-7301. **Public school fund.** The public school fund shall be maintained by the state treasurer as a subfund in the trust and legacy fund and the principal amount of such fund shall be irreducible and permanent. The following monies shall be credited to such fund as an addition to the irreducible and perma-

Credit of monies.

nent principal amount: (1) appropriations and donations by the state;

(2) donations and bequests by individuals to the state or schools;

(3) the proceeds of land and other property which revert to the state by escheat and forfeiture;

(4) the proceeds of all property granted to the state, when the purpose of the grant is not specified or is uncertain;

(5) funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law;

(6) the proceeds of the sale of timber, stone, materials, or other property from school lands other than those granted for specific purposes, and all monies other than rental recovered from persons trespassing on such lands;

(7) the principal of all monies arising from the sale of lands and other property which have been and may be hereafter granted to the state for the support of common schools;

(8) the amount earmarked for deposit in this fund under the provisions of section 75-6907; and

(9) such other monies as may be provided by the legislature.

Validation of title.

Section 357. Section 75-7302. **Title to farm mortgage lands vested in state and transfers validated.** The transfer of farm mortgage lands made by chapter 250, Laws of 1953, shall be deemed to have vested title in such lands in the state of Montana in trust for the state public school fund.

In trust.

Conveyances sufficient in law.

All contracts, certificates of purchase, deeds, and conveyances executed by the state of Montana in the administration of such lands since the effective date of chapter 250, Laws of 1953, shall be deemed sufficient in law to dispose of the right, title, and interest therein described by the state of Montana.

Authority to acquire federal grant monies.

Section 358. Section 75-7303. **Acceptance and expenditure of federal monies for state.** The governor and the superintendent of public instruction are hereby authorized on behalf of the state of Montana to request and accept such monies as are now or will be made available under any act of congress of the United States, or otherwise, for purposes of public school building construction or for any other purposes of public schools and public education as permitted under the laws of the state of Montana and as authorized by the grants from the federal government. Such monies shall be deposited by the governor and superintendent of public instruction with the state treasurer, and are hereby appropriated and made available to the superintendent of public instruction. All such monies shall be expended for the purpose of public school building construction or for any other purposes of public schools and public education as permitted under the laws of the state of Montana and as authorized by the grants from the federal government. Such expenditures shall be made under the supervision and in the discretion of the superintendent of public instruction. Any balance in the account in which such monies are maintained shall not lapse at any time, but shall be continuously available to the superintendent of public instruction for expenditures consistent with this act and acts of the federal government.

Deposit with state treasurer.

Expenditures.

Supervision.

Account continuous.

Financial administration.

Section 359. Section 75-7304. **Financial administration of interlocal cooperative agreement.** Any district contracting with other districts or other public agencies to establish an interlocal cooperative agreement under the provisions of chapter 49, Title 16, R.C.M., 1947, shall be subject to the provisions of sections 75-7305, 75-7306 and 75-7307 for the purposes of the financial administration of such agreement.

Interlocal cooperative agreements.

Definitions.

Prime agency.

Cooperative agency.

Section 360. Section 75-7305. **Definitions of prime and cooperating agencies.** For the purposes of an interlocal cooperative agreement the prime agency shall be the district or other public agency vested with the financial administration of the interlocal cooperative agreement under the terms of such agreement and the cooperating agency shall be any district or public agency other than the prime agency who is a party to the contract creating the interlocal cooperative agreement.

District as prime agency may establish fund.

Section 361. Section 75-7306. **District as prime agency.** When the prime agency is a district, it is authorized and required to establish a non-budgeted interlocal cooperative fund for the purpose of the financial adminis-

Deposit of revenues.

tration of the interlocal cooperative agreement. All revenues received, including federal, state, or other types of grant payments in direct support of the agreement and the financial support provided by cooperating agencies, shall be deposited in such fund. All financial support of the agreement contributed by a district, designated as the prime agency, may be transferred to the interlocal cooperative fund from any fund maintained by such district by resolution of the trustees. Any such transfer to the interlocal cooperative fund shall be used to finance those expenditures under the agreement which are comparable to those that are permitted by law to be made out of the fund from which the transfer was made, and which are within the final budget for the fund from which the transfer was made. No transfer shall be made from the miscellaneous federal programs fund without the express approval of the superintendent of public instruction. All expenditures in support of the interlocal cooperative agreement shall be made from the interlocal cooperative fund established by the district which is the prime agency, except that expenditures in support of such agreement may be made from the miscellaneous federal programs fund when the express approval of the superintendent of public instruction is given.

Transfer of funds.

Expenditures.

Limitations.

District as cooperating agency—transfer of financial support to prime agency.

Section 362. Section 75-7307. **District as cooperating agency.** When a district is the cooperating agency, it shall transfer its financial support under the interlocal cooperative contract to the prime agency by district warrant. The financial support may be provided from any fund maintained by the district. Any such fund utilized for the financial support of an interlocal cooperative agreement shall finance only those expenditures of such agreement that are comparable to those permitted under the statutory provisions creating such fund and such financial support must be within the currently adopted budget for such fund. No financial support shall be financed from the miscellaneous federal programs fund without the express approval of the superintendent of public instruction.

Limitations on expenditures.

Approval required.

Joint interstate school agreements authorized.

Section 363. Section 75-7308. **Joint interstate school agreements.** The trustees of any district adjacent to another state may enter into a contract with a school district in such adjoining state to provide for the joint erection, operation and maintenance of school facilities

for both districts upon such terms and conditions as may be mutually agreed to by such districts and as are in accord with this section. Any such contract proposed for adoption by the trustees shall be in the form and contain only terms that may be prescribed by the superintendent of public instruction, and any such contract shall be approved by the superintendent of public instruction before it is considered by the electors of the district.

Contract forms.

Approval required.

Before any contract negotiated under the provisions of this section shall be executed, the trustees shall call an election under the provisions of section 75-6406 and submit to the qualified electors of the district the proposition that such contract be approved and that the trustees execute such contract. No agreement shall be valid until it has been approved at an election. The electors at the election shall be qualified to vote under the provisions of section 75-6410 and the election shall be conducted under the school election provisions of this title. The ballot for the election shall be substantially in the following form:

Election.

Elector qualifications.

Conduct.

Ballot form.

PROPOSITION

SCHOOL DISTRICT NO. ....., ...COUNTY

Shall the trustees of this district be authorized and directed to execute the proposed contract with school district number ..... of .....county, state of ....., for the purpose of (insert the purpose of such contract)?

☐ FOR EXECUTION OF CONTRACT

☐ AGAINST EXECUTION OF CONTRACT

Trustees authority to levy taxes and issue bonds.

The trustees of any district executing a contract under this section shall have the power and authority to levy taxes and issue bonds for the purpose of erecting and maintaining the facilities authorized by this section. Furthermore, the facilities erected or maintained under this section may be located in either Montana or the adjoining state.

Location of facilities.

Trustees authority to accept gifts.

Section 364. Section 75-7309. **Gifts, legacies, devices and administration of endowment fund.** The trustees of any district shall have the authority and the power to accept gifts, legacies and devises, subject to the condi-

tions imposed by the deed of the donor, the will of the testator or without any conditions imposed. Unless otherwise specified by the donor, devisor or testator, when a district receives a gift, legacy or devise, the trustees shall deposit such gift, legacy, devise, or the proceeds therefrom in an endowment fund. The trustees shall administer the endowment fund so as to preserve the principal from loss and only the income from such fund shall be appropriated for any purpose.

Deposit in endowment fund.

Limitation on uses.

Investments.

The money deposited in the endowment fund shall be invested by the trustees under the provisions of subsection (4) of section 75-6806 unless the conditions of the endowment instrument require an immediate disbursement of such money. No portion of the endowment fund shall be loaned to the district nor shall any money of such fund be invested in warrants of the district.

Loans prohibited.

Transfer of monies.

Whenever any district has been abandoned, the endowment fund of such abandoned district shall be transferred and placed in the endowment fund in the district to which the territory is attached.

County treasurer is custodian.

July 1.

Accounting.

As the custodian of the endowment fund, the county treasurer shall be liable on his official bond for the endowment fund of any district of the county. No later than the first day of July of each school fiscal year, the county treasurer shall account to the trustees of each district on the condition of its endowment fund including the status of the investments that have been made with the money of the fund. The county treasurer shall also include the endowment fund in his reports to the board of county commissioners.

Memorials.

The trustees of any district having an endowment fund shall provide suitable memorials for all persons or associations of persons making gifts to the district which become a part of the endowment fund.

Definitions.

Section 365. Section 75-7401. **Definition of pupil instruction.** As used in this title, unless the context clearly indicates otherwise:

"Pupil instruction."

"Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools while under the supervision of a teacher.

School fiscal year.

Section 366. Section 75-7402. **School fiscal year.** The school fiscal year shall begin on the first day of July

180 days.

Forfeiture of monies.

and end on the last day of June. At least one hundred eighty (180) school days of pupil instruction shall be conducted during each school fiscal year. Any district that fails to provide for at least one hundred eighty (180) school days of pupil instruction shall not be entitled to receive any apportionment of the state interest and income funds. Any such forfeited monies shall be apportioned by the county superintendent to the other elementary districts of his county.

School day defined.

Emergency.

Section 367. Section 75-7403. **School day.** A school day of pupil instruction shall be at least two (2) hours for kindergartens and all other preschool programs, at least four (4) hours for grades one (1) through three (3), and at least six (6) hours for grades four (4) through twelve (12). The number of hours in a school day may be reduced, in an emergency, with the approval of the board of education.

Instruction on Saturday or Sunday prohibited.

Exception.

Section 368. Section 75-7404. **Conduct of school on Saturday or Sunday prohibited and exception.** Except as provided, pupil instruction shall not be conducted on Saturday or Sunday. In emergencies pupil instruction may be conducted on a Saturday when it is approved by the superintendent of public instruction in accordance with the policies adopted by the board of education.

Pupil-instruction-related-day defined.

Activities.

Section 369. Section 75-7405. **Pupil-instruction-related day.** A pupil-instruction-related day shall be a day of teacher activities devoted to improving the quality of instruction. Such activities may include, but are not limited to, in-service training, attending state meetings of teacher organizations, and conducting parent conferences. A maximum of seven pupil-instruction-related days may be conducted during a school year; provided that such days are approved by the superintendent of public instruction in accordance with the policy adopted by the board of education. Such days shall not be included as a part of the required minimum of one hundred eighty (180) days of pupil instruction.

Maximum 7 days.

Approval.

Not part of required 180 days.

School holidays defined.

Section 370. Section 75-7406. **School holidays.** Pupil instruction and pupil instruction related days shall not be conducted on the following holidays: (1) New Year's day (January 1),

(2) Memorial day (last Monday in May),

(3) Independence day (July 4),

(4) Labor day (first Monday in September),

(5) Veterans' day (fourth Monday in October),

(6) Thanksgiving day (fourth Thursday in November),

(7) Christmas day (December 25),

(8) State and national election days when the school building is used as a polling place and the conduct of school would interfere with the election process at the polling place.

When these holidays fall on Saturday or Sunday, the preceding Friday or the succeeding Monday shall not be a school holiday.

Required commemorative days.

Section 371. Section 75-7407. **Commemorative exercises on certain days.** All districts shall conduct appropriate exercises during the school day on the following commemorative days: (1) Lincoln's birthday (February 12),

(2) Washington's birthday (February 22),

(3) Arbor day (last Friday in April),

(4) Flag day (June 14),

(5) Citizenship day (September 17),

(6) Columbus day (October 12),

(7) Pioneer day (November 1),

(8) Other days designated by the legislature or governor as legal holidays.

When these commemorative days fall on Saturday or Sunday, exercises may be conducted the preceding Friday.

Board shall adopt standards of accreditation.

Section 372. Section 75-7501. **Standards of accreditation.** Standards of accreditation for all schools shall be adopted by the board of education upon the recommendations of the superintendent of public instruction.

Section 373. Section 75-7502. **Accreditation of schools.** Every school year the conditions under which

each elementary school, junior high school, and high school operates shall be reviewed by the superintendent of public instruction to determine each school's compliance with the standards of accreditation. The accreditation status of every school shall then be established by the board of education upon the recommendation of the superintendent of public instruction, and notification of such status for the applicable school year shall be given to each district.

Annual review.

Status.

Notice.

Required instruction in elementary schools.

Section 374. Section 75-7503. **Instruction in elementary schools.** All elementary schools shall be taught in the English language. Instruction shall be given in reading, penmanship, mathematics, language arts, social sciences, science, health, physical education, music and art. Instruction may be given in additional subjects when approved by the trustees.

Required instruction in high schools.

Section 375. Section 75-7504. **Instruction in junior high schools and high schools.** All junior high schools and high schools shall be taught in the English language. Instruction shall be given in accordance with the requirements of the standards of accreditation adopted by the board of education. Such standards shall require instruction in English, American history, American government, mathematics, science, health and physical education. Instruction may be given in additional subjects when approved by the trustees.

Duties of state superintendent.

Curriculum guides.

Section 376. Section 75-7505. **Maintenance of curriculum guide file and publishing curriculum guides by superintendent of public instruction.** The superintendent of public instruction shall collect and maintain a file of curriculum guides to be made available to districts for the use of schools in planning courses of instruction. He may prepare, publish, and distribute curriculum guides for the use of schools in planning courses of instruction. He may solicit the assistance of educators and other qualified persons in the preparation of curriculum guides.

Assistance in planning.

Section 377. Section 75-7506. **Instructional assistance by superintendent of public instruction.** The superintendent of public instruction shall, at the request of the district or county superintendent, assist the schools with the planning, implementation, operation, and evaluation of instruction through in-service training and individual consultation.

Trustees may establish kindergartens.

Section 378. Section 75-7507. **Kindergarten and preschool programs.** The trustees of an elementary school district may establish and operate a free kindergarten or other preschool programs for children between the ages of three (3) and six (6) years. When such kindergarten and preschool programs are established, they shall be an integral part of the elementary school and shall be governed accordingly. Financing of kindergarten and preschool programs shall not be supported by monies available from state equalization aid.

Limitation on funds.

Credits—private music instruction.

Section 379. Section 75-7508. **Private music instruction.** Schools may grant credit to pupils completing courses of private music instruction, conducted outside of school hours and at the pupils' own expense. The instruction shall be provided by a teacher holding a valid Montana teacher's certificate with a music endorsement. The district granting such credit shall provide adequate supervision for the instruction and shall determine the allowable credit for such courses.

Conservation instruction required in all schools.

Section 380. Section 75-7509. **Conservation education.** Instruction in conservation shall be given in all schools. The scope of the conservation education program shall be approved by the board of education upon the recommendations of the superintendent of public instruction and shall include a wide-spread understanding of conservation facts, principles, and attitudes. Such instruction shall not be a specific course but shall be integrated with the instruction in related courses.

Basic teacher instruction.

In order to complement the instruction in conservation, the separate units of the university system shall make available to all students in a teacher education program basic instruction in conservation education, and shall include instruction in conservation in their community or public service programs.

Forestry instruction.

To further promote conservation education, all districts are encouraged to instruct pupils about the benefits of preserving the forests and the best methods of planting and conserving trees, and by permitting the pupils to assist in planting trees and shrubs on school grounds and elsewhere on Arbor Day.

Arbor Day.

Trustees may provide supervised correspondence study.

Section 381. Section 75-7510. **Supervised correspondence study.** The trustees of any district may provide supervised correspondence study for a pupil when it is im-

possible for him to attend a school due to the isolation of his residence or his mental or physical incapacity. Supervision of the correspondence course shall be provided by the district superintendent or the county superintendent, if there is no district superintendent.

State library of educational media.

Section 382. Section 75-7511. **State visual, aural and other educational media library.** A library of visual, aural and other educational media shall be established and maintained by the superintendent of public instruction. The media shall be selected by the superintendent of public instruction, subject to the approval of the board of education, on the basis of their usefulness as teaching aids and resources for schools and other educational groups within the state, and shall be made available to such schools and groups either on a charge-free loan or on a rental fee basis.

Availability.

"Adult education" defined.

Section 383. Section 75-7512. **Definition of adult education.** As used in this title, unless the context clearly indicates otherwise, the term "adult education" means the instruction of persons sixteen (16) years of age or older who are not regularly enrolled, full-time pupils for the purposes of ANB computation. This definition shall not include the instruction in post-secondary vocational-technical centers.

Trustees may establish adult education program.

Section 384. Section 75-7513. **Authorization to establish adult education program.** The trustees of any district or community college district may establish and operate an adult education program at any time of the day when facilities and personnel are available. An adult education program may provide both basic and secondary general education, vocational education, American citizenship education including courses in the English language and American history and government, or any other areas of instruction approved by the trustees.

Areas of instruction.

Administrative policies.

Section 385. Section 75-7514. **Trustees' policies for adult education.** The trustees shall adopt such policies as are necessary for the supervision and administration of adult education when a program is established in the district.

Separate fund.

Section 386. Section 75-7515. **Adult education fund.** A separate adult education fund shall be established when an adult education program is operated by a district or

community college district. The financial administration of such fund shall comply with the budgeting, financing and expenditure provisions of the laws governing the schools.

Tuition. Fees.

Section 387. Section 75-7516. **Adult education tuition and fees.** The trustees of a district or community college district shall have the authority to charge tuition for instruction and to charge fees for the use of equipment and materials. The amount of such tuition and fees shall be determined on a per-course basis or on the basis of the cost of the entire adult education program. All proceeds from tuition and fees shall be deposited in the adult education fund.

Deposit of proceeds.

Library required in each school.

Section 388. Section 75-7517. **School library required.** The trustees of each district shall establish and maintain a school library in each school of the district. Each school library shall comply with at least the minimum requirements of the standards of accreditation adopted by the board of education.

Policies regulating school libraries.

Section 389. Section 75-7518. **Trustees' policies for school library.** The trustees shall adopt those policies necessary for regulating the use and operation of school libraries. These policies may provide for the use of school libraries by the residents of the district; provided that such use does not interfere with the regular school use of the library.

Book selection.

Section 390. Section 75-7519. **School library book selection.** School libary books shall be selected by the district superintendent, or a principal if there is no district superintendent, subject to the approval of the trustees. In districts not employing a superintendent or principal, the trustees shall select the school libary books on the basis of recommendations of the county superintendent.

School library reports.

Section 391. Section 75-7520. **Reporting school library information.** The trustees shall report school library information requested by the superintendent of public instruction, by the board of education, or, when there is no district superintendent or principal, by the county superintendent.

Use of sectarian material prohibited.

Section 392. Section 75-7521. **Sectarian publications prohibited and prayer permitted.** No publication of a sectarian or denominational character shall be used or

distributed in any school or be included in the school library. Instruction shall not be given in sectarian or denominational doctrines. However, any teacher, principal, or superintendent may open the school day with a prayer.

Prayer.

Definitions.

Section 393. Section 75-7601. **Definitions.** As used in this title, unless the context clearly indicates otherwise:

"Textbook." "Textbook" means a book or manual used as a principay source of study material for a given class or group of students.

"Textbook dealer." "Textbook dealer" means any party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state of Montana.

Free textbooks provided on loan basis.

Section 394. Section 75-7602. **Free textbook provisions.** The trustees of each district shall provide free textbooks to the public school pupils of the district. The trustees shall purchase such textbooks at the expense of the district and loan them to such pupils free of charge, subject to the textbook damage policy of the trustees. For the purpose of this section only, "textbooks" shall not include those books or manuals which are rendered unusable as a result of having pages designed to be written upon or removed during the course of the study they serve. When the parent of a pupil attending a school of the district so request, such textbooks shall be sold to them at cost.

Exception.

Sale at cost.

Textbook selection.

Section 395. Section 75-7603. **Textbook selection and adoption.** Textbooks shall be selected by the district superintendent or by the school principal, if there is no district superintendent. Such selections shall be subject to the approval of the trustees. In districts not employing a district superintendent or principal, the trustees shall select and adopt the textbooks on the basis of recommendations of the county superintendent.

Licensed textbook dealer. Copies.

Section 396. Section 75-7604. **Textbooks obtained from licensed textbook dealer.** Textbooks selected and adopted by districts shall be obtained from a licensed textbook dealer. Copies of such textbooks shall be on file in the textbook library maintained by the superintendent of public instruction.

Procedure for licensing.

Section 397. Section 75-7605. **Licensing textbook dealers.** Textbook dealers shall be licensed to sell textbooks by the superintendent of public instruction. To obtain a license a textbook dealer shall first file with the superintendent of public instruction his written agreement: (1) to file with the superintendent of public instruction copies of all textbooks to be offered for sale or adoption;

Dealer's written agreement.

Copies.

Guarantees.

Uniform prices.

(2) to guarantee that textbooks shall be supplied to any district at the listed, uniform sales prices in effect for schools when the textbooks are filed; except, that such prices may be reduced in accordance with this section;

(3) to guarantee that, at no time, shall any textbook sale price in Montana be a larger amount than the sale price to schools anywhere else in the United States under similar conditions of transportation and marketing; and

(4) to reduce automatically the listed, uniform sales price to schools whenever reductions of these prices are made anywhere in the United States.

Surety bond—provisions.

Textbook dealers filing the written agreement with the superintendent of public instruction shall also file a surety bond with the secretary of state. The surety bond shall run to the state of Montana and be conditioned on the faithful performance of all duties imposed upon textbook dealers for the purpose of regulating the supply of textbooks to districts. The amount of the surety bond shall be set by the superintendent of public instruction and shall be not less than two thousand dollars ($2,000) but not more than ten thousand dollars ($10,000). The bond shall be approved by the attorney general. It shall be the responsibility of the textbook dealer to maintain the surety bond on a current basis.

Not less than $2,000.
Not more than $10,000.
Approval.

When the textbook dealer has complied with the written agreement and surety bond requirements for licensing, the superintendent of public instruction shall issue a a license to the textbook dealer.

Issue of license.

Duty to file copies of all textbooks.

Section 398. Section 75-7606. **Filing textbooks with superintendent of public instruction.** Licensed textbook dealers shall file a copy of all textbooks, that are offered for sale or adoption to districts, in the textbook library maintained by the superintendent of public instruction.

Sworn statement of price.

When a copy of a textbook is filed, it shall be accompanied by a sworn statement of the listed, uniform sale price in effect for schools, F.O.B. the shipping point.

Special or abriged editions.

Special or abridged editions of any books on file with the superintendent of public instruction which are supplied outside of Montana at a lower price than the price of the edition filed with the superintendent of public instruction, shall be made available to districts in Montana. The offering for sale or adoption of such special or abridged editions shall be subject to the same textbook filing requirement as any other textbook.

Fees.

$2.00.

$6.00.

Deposit.

The fee for filing textbooks with the superintendent of public instruction shall be two dollars ($2) for each textbook. Where several textbooks are filed by a licensed textbook dealer in the same subject and with the same series head for any one grade, the maximum fee shall be six dollars ($6). Such monies shall be deposited in the state treasury to the credit of the state general fund.

10 year expiration Refiling.

The filing of a textbook shall expire ten (10) years after the date of its filing. Textbooks may be refiled in accordance with the filing and fee payment provisions of this section.

Duty to report violations.

Section 399. Section 75-7607. **Notification and processing of complaint against a licensed textbook dealer.** It shall be the duty of any district or county superintendent to notify the superintendent of public instruction whenever it is ascertained that a licensed textbook dealer is: (1) offering to supply textbooks not filed with the superintendent of public instruction;

(2) offering to sell textbooks at a higher price than the listed, uniform sales price filed with the superintendent of public instruction;

(3) offering to sell textbooks at a higher shipping point price than the shipping point price of the same textbooks distributed elsewhere in the United States;

(4) supplying textbooks inferior to the samples on file with the superintendent of public instruction; or

(5) in any other way, performing contrary to the laws regulating the offering of textbooks for sale or adoption to districts.

Upon receipt of such notification from the district or county superintendent, the superintendent of public instruction shall notify the appropriate licensed textbook dealer of the complaint. Once the superintendent of public instruction has found that the licensed textbook dealer has violated any provision of this section and he fails to rectify his error within thirty (30) days of the notification of the finding of a violation, he shall forfeit his surety bond. The attorney general, upon written request of the superintendent of public instruction, shall proceed to collect by legal action the full amount of the surety bond. Any amount so recovered shall be paid into the state public school equalization aid account.

Notice of complaint.

After 30 days bond forfeit.

Legal action.

Deposit of monies.

Section 400. Section 75-7608. **Penalty for doing business without textbook dealer's license.** Any textbook dealer who shall sell, or offer for sale or adoption a textbook to any district or county superintendent without first obtaining a textbook license from the superintendent of public instruction shall be guilty of a misdemeanor. Upon conviction of such misdemeanor, he shall be fined not less than five hundred dollars ($500) or more than two thousand dollars ($2,000).

Penalties—unlicensed dealer.

Section 401. Section 75-7609. **Penalty for restricting competition.** At any time a licensed textbook dealer enters into any understanding, agreement or combination to control textbook prices or otherwise restrict competition in the sale of textbooks, he shall forfeit his surety bond and textbook dealer's license. The attorney general shall institute and prosecute legal proceedings for the forfeiture of the surety bond of such licensed textbook dealer and for revocation of his textbook dealer's license.

Penalties—restricting competition.

Bond forfeit.

Legal action.

Section 402. Section 75-7610. **Penalty for offer or acceptance of emoluments or other inducements.** No textbook dealer nor his agent shall offer any emolument or other inducement to any trustee or school employee to influence the selection, adoption or purchase of textbooks.

Other penalties.

No trustee, county superintendent or school employee shall accept any emolument or other inducement from a textbook dealer or agent of such dealer for the use of his influence in the selection, adoption or purchase of textbooks.

The violation of any provisions of this section shall

constitute a misdemeanor. In addition, any trustee, county superintendent or school employee convicted of such misdemeanor shall be removed from his position.

Nothing in this section shall be construed to prevent the supplying of a necessary number of sample textbooks for the purpose of examination by school officials or school employees.

Exception—sample textbooks.

Section 403. Section 75-7611. **Listing of textbooks on file with the superintendent of public instruction.** By May first of each year, the superintendent of public instruction shall supply a list of the textbooks then on file in his office to all districts and county superintendents. The list shall show the textbook title and its listed, uniform sales price. Textbooks may be excluded from the list: (1) at the written request of the licensed textbook dealer;

May 1.

List of textbooks on file. Exclusions.

(2) after the textbook has been listed on ten annual listings; or

(3) when the licensed textbook dealer's surety bond is no longer in effect.

Section 404. Section 75-7701. **Definitions.** As used in this title, unless the context clearly indicates otherwise:

Definitions.

"Vocational education" means the instruction to prepare or improve the pupil for gainful employment that does not require a baccalaureate or higher degree. This definition of vocational education shall include guidance and prevocational, related or technical instruction necessary to prepare the pupil for further vocational education or for entry into employment.

"Vocational education."

"Post-secondary vocational-technical education" means vocational-technical education of post-secondary vocational-technical pupils which is conducted by a post-secondary vocational-technical center or other programs as designated by the board of education. Post-secondary vocational-technical education shall include the 13th and 14th year and beyond but will not include work toward a baccalaureate degree.

"Post-secondary vocational-technical education."

"Post-secondary vocational-technical pupil" means a person who has completed or left school, is at least sixteen (16) years of age, and is available for study in prep-

"Post-secondary vocational-technical pupil."

aration for entering the labor market, for re-entering the labor market, or for employment stability or advancement in employment.

"Post-secondary vocational-technical center."

"Post-secondary vocational-technical center" means a school used principally for the provision of post-secondary vocational-technical education to persons who qualify as post-secondary vocational-technical pupils. These centers are designated by the board of education upon direction by the legislature. All other public or private schools are hereby prohibited from using this title.

Use of title prohibited.

Governing board for vocational education.

Orderly development.

Required policies.

Section 405. Section 75-7702. **Duties of board of education.** The board of education shall be the governing board of the state of Montana for vocational education. The board of education shall adopt policies to effect the orderly development of a system of vocational education that is adaptable to changing needs, controlled to prevent unnecessary duplication, coordinated with federal guidelines and requirements for vocational education, and funded to insure growth and quality programming. In order to accomplish the orderly development of a system of vocational education, the board of education policies shall include: (1) a state plan for such development;

(2) standards for vocational education courses and programs;

(3) instructor qualifications for vocational education courses and programs;

(4) criteria for approval of vocational education courses and programs which are to receive financial assistance;

(5) a basis for apportionment of all monies appropriated by the legislature for vocational education in accordance with the intent of the legislature as reflected in the terms of the appropriation;

(6) a basis for apportionment of all monies received by the state of Montana for vocational education from the federal government in accordance with the acts of Congress;

(7) a system of evaluation of vocational education which allows for consideration of the current and projected manpower needs and job opportunities; and

(8) any other policy not inconsistent with public law and which is necessary for the proper operation of a system of vocational education.

Executive officer of board.

Duties.

Section 406. Section 75-7703. **Duties of superintendent of public instruction as executive officer.** The superintendent of public instruction shall be the executive officer of the board of education for the administration of all state and federal laws related to vocational education. As the executive officer, the superintendent of public instruction shall: (1) administer the vocational education policies adopted by the board of education;

(2) prepare curriculum guides for board of education adoption;

(3) employ, with the confirmation of the board of education, the professional staff necessary for the state supervision and administration of vocational education;

(4) report the status of vocational education in the state of Montana when requested by the board of education;

(5) keep all vocational educational records in his office; and

(6) provide vocational education supervisory and consultative assistance to districts.

Trustees may establish vocational education.

Approval by board.

Section 407. Section 75-7704. **District authorization to establish and maintain vocational education courses and programs.** The trustees of any district, community college district, or unit of the Montana university system may establish and maintain a vocational education course or program that complies with the vocational education standards adopted by the board of education. In order for a course or program to be eligible for state or federal financing, it shall be approved by the board of education.

State acceptance of federal acts.

Section 408. Section 75-7705. **Acceptance of acts of congress for vocational education.** The state of Montana hereby reaffirms the acceptance of and assents to the terms and provisions of the act of Congress entitled "The Vocational Education Act of 1963" and the "Vocational Education Amendments of 1968," and further hereby accepts and assents to the terms and provisions of all acts of the Congress amendatory of "The Vocational Education Act of 1963," and to the terms and provisions of all other

acts of Congress which provide funds for the benefit of vocational education in Montana.

Section 409. Section 75-7706. **State treasurer custodian of vocational education monies.** The treasurer of the state of Montana is hereby designated as the custodian of all federal and state monies designated, appropriated or apportioned for vocational education. All monies received from any federal or state source for the establishment, operation or furtherance of vocational education in the state shall be deposited with the state treasurer. At the direction of the board of education, he shall disburse all monies appropriated or received for vocational education.

Custodian of federal and state monies.

Deposit.

Disbursement.

Section 410. Section 75-7707. **Post-secondary vocational-technical center designation.** Post-secondary vocational-technical centers shall be designated by the board of education only upon direction of the legislature. Applications for designation must be made in accordance with the following procedure: (1) The trustees of any high school district, of a county high school, of a community college district, or the governing board of any unit of the Montana university system may submit an application for designation of a post-secondary vocational-technical center to be operated by such trustees or governing board. The application for designation shall be submitted in accordance with the time, data and form requirements prescribed by the board of education. Applicant high school districts, county high schools, or community college districts shall be located in a county with a taxable valuation of at least forty-five million dollars ($45,000,000).

Board shall designate centers.

Application procedure.

Limited to county with taxable valuation of at least $45,000,000.

(2) Applications are to be presented to the superintendent of public instruction acting in his capacity as the executive officer for vocational education of the board of education. The superintendent of public instruction shall review the application and present it to the board of education along with his recommendations. The board of education shall then examine the application and recommendations of the superintendent of public instruction and either adopt the recommendations of the superintendent of public instruction or draft its own recommendations. The application, together with all recommendations shall be presented by the board of education to the next following legislative assembly.

Review and presentation to board.

Board action.

Presentation to legislative assembly.

The board of education shall recognize the presently designated post-secondary vocational-technical centers operated by the respective board of trustees of school district number 1 of Silver Bow county, high school district number 1 of Lewis and Clark county, high school district "A" of Cascade county, Missoula County High School, and high school district number 2 of Yellowstone county.

Recognition of present centers.

Section 411. Section 75-7708. **Program and budget categories for post-secondary vocational-technical education centers.** The board of education shall have the sole authority for the approval of the post-secondary vocational-technical education programs and their budgets. Such programs and budgets shall be placed into three categories defined as: (1) Maintenance and operation. The maintenance and operation category shall include programs and costs for instruction; vocational guidance and counseling; job placement; travel of pupils and personnel while engaged in a program; acquisition, maintenance, and repair of equipment; and the rental of necessary emergency facilities for not more than one year.

Board approval of programs and budgets.

Three categories.

Maintenance and operation.

(2) Construction. The construction category shall include the program and cost for construction of new buildings; acquisition, expansion, remodeling and alteration of existing buildings; site acquisition and improvements; architectural fees; and the purchase of initial equipment.

Construction.

(3) Ancillary services. The ancillary services category shall include the program and cost for the services and activities necessary to assure quality in the post-secondary vocational-technical center's instruction, such as supervision and administration of the center, program evaluation, special demonstration and experimental programs, and development of instructional materials and curriculum.

Ancillary services.

The trustees of the designated district or other governing board where the post-secondary vocational-technical center is located shall submit program proposals and the related budgets on the basis of these categories and in accordance with the program and budget approval procedure prescribed by the board of education.

Trustees shall submit proposals.

Section 412. Section 75-7709. **Sources of financing for post-secondary vocational-technical center budgets and board of education administration.** The total of the budgets approved by the board of education together

Total of budgets.

with the budget for the cost of state administration of the post-secondary vocational-technical centers shall constitute the total maximum approved, statewide budget which shall be financed as follows: (1) The primary source of financing is to be those funds specifically designated by legislative enactment or referendum by the people for financing post-secondary vocational-technical education in Montana.

Primary source.

(2) The board of county commissioners of each county in which a designated post-secondary vocational-technical center is located is hereby authorized to levy a tax of not to exceed one (1) mill on the dollar of all taxable property, real and personal, within the county for the support and maintenance of the post-secondary vocational-technical center located within the said county.

County levy.

(3) Designated post-secondary vocational-technical centers shall be eligible to receive such funds from the federal government as the board of education may provide pursuant to applicable acts of Congress.

Federal funds.

(4) If the aggregate financing provided by the above sources of revenue does not provide one hundred per cent (100%) financing of the maximum approved, statewide budget, the remaining deficiency shall be financed from any state funds appropriated by the legislature for post-secondary vocational-technical education.

Deficiencies.

Distribution of funds.

The board of education shall direct the distribution of the funds specified in subsections (1), (3), and (4) of this section on the basis of the budgets approved by the board of education. The funds earned by the mill levy specified in subsection (2) of this section shall be credited by the county treasurer to the post-secondary vocational-technical center fund.

Credit of funds.

Determination of available monies.

The board of education shall determine the amount of financing available from these four sources of revenue and may approve budgets for maintenance and operation, construction and ancillary services. The aggregate amount of the budgets so approved by the board of education for post-secondary vocational-technical centers shall not exceed the monies determined to be available.

Section 413. Section 75-7710. **Local administration.** The trustees or governing board of a post-secondary vocational-technical center shall administer such center ac-

Administration of centers.

cording to the requirements of the laws of the state of Montana, the policies of the board of education, and the regulations of the superintendent of public instruction. If, in construing such laws, there is a conflict between the laws providing for post-secondary vocational-technical centers and any other laws governing the operation of schools, the former shall have the conrolling authority.

Conflict of laws.

Section 414. Section 75-7711. **Exception to school calendar.** The post-secondary vocational-technical center shall not be required to conform to the 180 day school calendar so that programs shorter or longer than this calendar may be offered.

180 day school calendar not applicable.

Section 415. Section 75-7712. **Admission of pupils with priority to Montana residents.** Any person who qualifies as a post-secondary vocational-technical pupil as defined in this act shall be admitted to the post-secondary vocational-technical center of his choice except that pupils who qualify as residents of the state of Montana as hereafter defined shall be given priority in case enrollment limitations are caused by resource limitation.

Pupil qualification.

Residents have priority.

Section 416. Section 75-7713. **Waiver of tuition for Montana residents and setting nonresident tuition rates.** Tuition shall not be charged to any resident of the state of Montana by the governing board of any post-secondary vocational-technical center. However, nonresidents may be charged tuition at rates to be determined by the board of education. For the purposes of this section the eligibility of a student for resident status shall be determined in the same manner as that prescribed for use by the Montana university system, except that those provisions referring to "high school graduates" or "graduation from high school" shall be considered to refer to a person who has attended school or who was in attendance at a school.

No tuition for residents.

Nonresident tuition rates.

Determination of resident status.

Exceptions.

Section 417. Section 75-7714. **Pupil fees and disposition of collected fees.** Fees for the use of equipment and material used in instruction may be charged by the trustees or other governing board of the post-secondary vocational-technical center. The board of education shall prescribe the basis and limitations for the charging of such fees.

Fees.

Fees collected by the post-secondary vocational-technical center shall be deposited with the county treasurer

Deposit.

Expenditures.

in the fund designated by the superintendent of public instruction for the receipt of such fees. The expenditure of the fees shall not be subject to budget limitations and shall be in addition to the program budgets approved by the board of education.

State authorized to enter into lease agreement—maximum term of 40 years.

Section 418. Section 75-7715. **Lease or purchase of state property for post-secondary vocational-technical center purposes.** The state of Montana, acting by and through the board of education, is hereby empowered and authorized to enter into a lease agreement for a term not to exceed forty (40) years, in order to lease to a district operating a post-secondary vocational-technical center any building or lands owned by the state and financed in whole or in part by an appropriation made by the legislature of the state of Montana for the purpose of supporting the district's post-secondary vocational-technical center. The consideration necessary to support such a lease may be nominal.

Transfers of title.

The board of education is hereby authorized to transfer, or direct transfer of, title held by the state of Montana in buildings or lands financed in whole or in part by an appropriation by the state legislature, to a district operating a post-secondary vocational-technical center, at any time the board of education deems such transfer to be in the best interests of both the state and the district involved, provided that this authorization extends only to buildings or lands which are to be used by the district for post-secondary vocational-technical education purposes.

Limited purposes.

Definitions.

Section 419. Section 75-7801. **Definitions.** As used in this title, unless the context clearly indicates otherwise:

"Special education."

"Special education" means the type of instruction requiring special facilities or programs for mentally retarded or physically handicapped children.

"Mentally retarded child."

A "mentally retarded child" means any child who is not capable of profiting from the regular instruction of a school because his mental ability is substantially below the mental ability of an average child of the same age. Mentally retarded children are classified as follows:

"Educable mentally retarded child."

(a) An "educable mentally retarded child" means a child who, at maturity, cannot be expected to attain a level of intellectual functioning greater than that com-

monly expected of an eleven-year-old child, but not less than that of a seven-year-old child.

"Trainable mentally retarded child."

(b) A "trainable mentally retarded child" means a child who, at maturity, cannot be expected to attain a level of intellectual functioning greater than that commonly expected of a seven-year-old child and, for entrance into a training program, is capable of walking, of clean body habits, and of obedience to simple commands.

"Custodial mentally retarded child."

(c) A "custodial mentally retarded child" means a child who does not show a likelihood of attaining clean body habits, responsiveness to directions, or means of intelligible communication.

"Physically handicapped child."

A "physically handicapped child" means a child who is capable of profiting from the regular instruction with the assistance of special equipment, special services, or transportation to compensate for physical disabilities such as, but not limited to, cardiac impairment, cerebral palsy, chronic health problems, or inadequate speech, hearing or vision.

Conduct of special education.

Section 420. Section 75-7802. **Conduct of special education to comply with board of education policies.** The conduct of special education programs shall comply with the policies recommended by the superintendent of public instruction and adopted by the board of education. These policies may include, but are not limited to, regulation of class size, class grouping, curriculum, methods of instruction, teacher qualifications, distances of travel to classes or programs, necessary equipment and other special services.

Required policies.

Duties of state superintendent.

Section 421. Section 75-7803. **Duties of superintendent of public instruction.** The superintendent of public instruction shall supervise and coordinate the conduct of special education in the state by: (1) recommending to the board of education for adoption of those policies necessary to establish a planned and coordinated program of special education in the state;

Recommendations to board.

Administration.

(2) administering the policies adopted by the board of education;

Certification of teachers.

(3) certifying special education teachers on the basis of the special qualifications for such teachers as prescribed by the board of education;

Determining need. (4) discovering through observation, examination or testing the children in the state who are in need of special education;

Determining instruction. (5) determining the type of instruction required by children needing special education and preparing appropriate curriculum guides for such instruction;

Health assistance. (6) seeking appropriate medical, psychiatric, and psychological assistance from the state departmnt of health and other public agencies in diagnosing the special education needs of children, in planning programs, and in admitting and discharging children from such programs;

Recommendations to districts. (7) recommending to districts the type of special education class or program needed to serve the special education children of such districts;

Program approval. (8) approving, as they are established or proposed and annually thereafter, those special education classes or programs which comply with the laws of the state of Montana, policies of the board of education, and the regulations of the superintendent of public instruction;

Supervision. (9) providing supervision for and consulting with district superintendents, principals, teachers and trustees;

Conferences. (10) conducting conferences, offering advice and otherwise cooperating with parents and other interested persons; and

Coordinator with other agencies. (11) acting as the coordinating agency with federal agencies, other state agencies, political subdivisions of the state, and private bodies on matters concerning special education, reserving to the other agencies and political subdivisions their full responsibilities for other aspects of the care of children needing special education.

Duty of other state departments to assist. Section 422. Section 75-7804. **Cooperation of state agencies.** The state department of health, the department of institutions, and the state school for the deaf and blind shall assist the superintendent of public instruction in discovering children in need of special education; in determining the type of special education for these children, and in generally supervising and coordinating special education in the state. Nothing herein shall be construed to interfere with the purpose and function of these state agencies.

Mandatory special education. Section 423. Section 75-7805. **Mandatory establishment of special education class.** The trustees of any district shall establish and maintain at least one applicable special education class when there are ten (10) or more educable mentally retarded children in the district and at least one (1) applicable special education class when there are ten (10) or more physically handicapped children in the district.

10 or more children in district.

Trustees may establish special education. Section 424. Section 75-7806. **Discretionary establishment of special education class or program.** The trustees of any district may establish and maintain a special education class or special education program for: (1) four (4) or more educable mentally retarded children;

(2) four (4) or more physically handicapped children;

(3) four (4) or more trainable mentally retarded children;

(4) individual children requiring special education such as home or hospital tutoring, school-to-home telephone communication, or other individual programs; or

(5) educable mentally retarded children or physically handicapped children under the age of six (6) years of age when the superintendent of public instruction has determined that such programs will:

(a) assist a child to achieve levels of competence that will enable him to participate in the regular instruction of the district when he could not participate without special education;

(b) permit the conservation or early acquisition of skills which will provide the child with an equal opportunity to participate in the regular instruction of the district; or

(c) provide other demonstrated educational advantages which will materially benefit the child.

Parents of four or more children may petition trustees. Section 425. Section 75-7807. **Petition of parents for establishment of special education class or program.** The parents of four (4) or more children needing special education of one type of educable mentally retarded children or physically handicapped children may petition the trustees to establish a special education class or program. Parents residing in several contiguous districts may pe-

tition the trustees of each district to cooperatively establish a special education class or program of one type for four (4) or more children. The interlocal cooperative agreement authorized in chapter 49 of title 16, R.C.M., 1947, shall be used to establish a multi-district special education class or program.

Trustees may arrange attendance in another district.

Section 426. Section 75-7808. **Providing tuition in lieu of a special education class or program.** In lieu of providing special education in the district, the trustees may arrange for the attendance of a child in need of special education in a special education class or program approved by the superintendent of public instruction and offered in another district within the state of Montana. Attendance at such a class or program shall be approved or disapproved in accordance with the laws governing the attendance of pupils in schools outside of the district.

Payment to elementary district—twice tuition rate.

Whenever a child resides in one elementary district but has approval to attend a special education class or program of another Montana elementary district, the district in which the child resides shall pay the tuition to the elementary district operating the class or program in the same manner as, but at twice the tuition rate, prescribed in section 75-7201 for the payment of tuition.

Payment to high school district.

Twice tuition rate.

Whenever a child has approval to attend a special education class or program of a Montana high school district outside his county of residence, the county in which the child resides shall pay the tuition to the high school district operating the class or program in the same manner as, but at twice the tuition rate, prescribed in section 75-6317 for the payment of tuition.

Trustees may arrange attendance out of state.

Section 427. Section 7809. **Out-of-state tuition for special education children.** The trustees of any district may arrange for the attendance of a child in need of special education in a special education class or program offered outside of the state of Montana. Attendance at such a class or program shall be approved or disapproved by the trustees and the county superintendent for elementary classes or programs, or by the county superintendent for high school classes or programs. Such approvals shall not be subject to the out-of-state attendance provisions of the laws governing the attendance of pupils in schools outside the state of Montana.

Whenever the attendance of a child at an out-of-state

special education class or program is approved, the officials authorized to approve such attendance may negotiate the amount and manner of payment of tuition. The budgeting provisions of sections 75-7203 and 75-6317 shall apply to these payments of out-of-state tuition.

Tuition.

No tuition at state institutions.

Section 428. Section 75-7810. **No tuition when attending a state institution.** When a child is attending an institution supported solely by funds of the state of Montana, the resident district or county shall not be required to pay tuition for such child.

State superintendent shall determine need.

Approve or reject applications.

Approval required.

Section 429. Section 75-7811. **Determination of need for special education and approval of classes and programs by superintendent of public instruction.** The determination of the children requiring special education and the type of special education needed by these children shall not be the responsibility of the trustees but shall be the responsibility of the superintendent of public instruction. Whenever the trustees of any district intend to establish a special education class or program, they shall apply for approval of the class or program, by the superintendent of public instruction. The superintendent of public instruction shall approve or disapprove the application for the special education class or program on the basis of its compliance with the laws of the state of Montana, the special education policies adopted by the board of education, and the regulations of the superintendent of public instruction. No special education class shall be operated by the trustees without the approval of the superintendent of public instruction. Each special education class or program must be approved annually.

Exclusions prohibited.

Exceptions.

Section 430. Section 75-7812. **Exclusion of children from special education class or program.** No mentally retarded child or physically handicapped child shall be excluded from an approved special education class or program unless: (1) the enrollment of the class is the maximum amount approved by the superintendent of public instruction; or

(2) the child's intellectual ability, age, or behavior pattern is not compatible with the class, as determined by the superintendent of public instruction with assistance of appropriate medical, psychiatric, or psychological advice.

Notice of exclusion. In the event a child is excluded under subsection (2), the trustees shall notify the local welfare department and the proper authorities of the department of institutions who shall be charged with the responsibility for providing adequate protection and care, in keeping with available facilities, so far as the parents are willing to accept such services.

Section 431. Section 75-7813. **Financial assistance for operation of special education class or program.** When a special education class or program has been approved, the following provisions shall govern the computation of the financial assistance to which the operating district is entitled: (1) In establishing the amount of the maximum-general-fund-without-a-vote, the ANB shall be:

Computation of financial assistance to districts.

ANB.

(a) forty-five (45) for a mentally retarded or physically handicapped class of seven (7) or more children;

(b) six (6) per child for a mentally retarded or physically handicapped class of not more than six (6) children but not less than four (4) children; or

(c) determined from an ANB schedule prepared by the superintendent of public instruction for all other types of special education classes and programs. The ANB schedule shall be based on the time required and the degree of special education provided and shall not allow more than six (6) ANB for each special education child.

New programs. (2) Whenever a new special education class or program is to be offered for the first time in the ensuing year and has been approved by the superintendent of public instruction prior to the adoption of the preliminary budget, an ANB based upon the estimated number of children to be enrolled in such class and determined according to the provisions in subsection (1) of this section may be used for the establishment of the foundation program and the permissive levy for the ensuing year.

Pupil enrolled for less than school year. (3) When a pupil is enrolled for less than a school year in an approved special education class or program, the district operating the class or program shall compute the ANB in the manner provided by the superintendent of public instruction.

Section 432. Section 75-7814. **Special education child eligibility for transportation.** With the approval of the superintendent of public instruction, any special education child shall be eligible for transportation when: (1) he is enrolled in a special education class or program operated by the district of such child's residence;

Eligibility for transportation.

(2) he is enrolled under an approved tuition agreement in a special education class or program operated a Montana district other than the child's resident district; or

(3) he is enrolled under an approved tuition agreement in a special education class or program operated outside of the state of Montana.

Section 433. Section 75-7815. **State transportation reimbursement for special education children.** Districts providing children with transportation to a special education class or program and complying with the special education transportation regulations promulgated by the superintendent of public instruction shall be eligible for a transportation reimbursement. The reimbursement shall be calculated from a schedule established by the superintendent of public instruction with the state providing two-thirds (2/3) of the reimbursement and the county in which the children reside providing the remainder.

Districts eligible for transportation reimbursement.

Calculation.

Section 434. Section 75-7816. **Financial assistance for under six year old special education class or program.** Any district operating an approved special education class or program for children under the age of six years shall be eligible for financial assistance in accordance with section 75-7813 and for transportation reimbursement under section 75-7815.

Financial assistance —programs for children under six.

Section 435. Section 75-7901. **Definitions.** As used in this title, unless the context clearly indicates otherwise:

Definitions.

"Traffic education" means instruction in the motor vehicle laws, in the acceptance of personal responsibility on the public highways, in the causes and consequences of traffic accidents, and in the skills necessary for the safe operation of motor vehicles.

"Traffic education."

"Traffic education course" means a course of traffic education which has been approved by the superintendent of public instruction.

"Traffic education course."

"Teacher of traffic education" means an instructor approved by the superintendent of public instruction to teach traffic education.

"Teacher of traffic education."

"Traffic education account."

"Traffic education account" means the state treasury account in the earmarked revenue fund for the deposit and disbursement of state traffic education revenue.

Account established.

Section 436. Section 75-7902. **State traffic education account and proceeds earmarked for the account.** There is hereby established a traffic education account in the treasury of the state of Montana. There shall be paid into this account a portion of the fines assessed and bails forfeited on all offenses involving a violation of a state statute or a city ordinance relating to the operation or use of motor vehicles, except offenses relating to parking of vehicles, in the following amounts: (1) where a fine is imposed, twenty per cent (20%) of the fine imposed;

Sources of funds—fines and bail forfeits.

Exception.

20% of fine imposed.

20% of total fines.

(2) where multiple offenses are involved, twenty per cent (20%) of the total sum of all fines imposed;

20% of fine paid.

(3) where a fine is suspended, in whole or in part, the portion paid to the traffic education account shall be twenty per cent (20%) of the fine actually paid; and

20% of forfeited bail.

(4) when any deposit of bail is made for an offense to which this section applies and the bail is forfeited, twenty per cent (20%) of the forfeited bail.

5% of license fees.

Five per cent (5%) of all monies received by the state of Montana from the collection of the motor vehicle driver's license fee provided for under the laws of Montana shall be contributed to the traffic education account.

Procedure for deposit of funds.

Section 437. Section 75-7903. **Transmittal of proceeds from fines and other sources.** The portion of the proceeds from fines and bail forfeitures which are to be deposited in the traffic education account shall be transmitted to the city or county treasurer, as the case may be, by the court collecting them, in the manner and at the times that fines and bail forfeitures are transmitted to such treasurers under law. The court shall indicate what portion of each fine is to be credited to the traffic education account. The city and county treasurers shall transmit monthly to the state treasurer, without deduction, the portions of the fines received which are to be credited to the traffic education account.

When a court is required to transmit fees, fines, and forfeitures directly to the state treasurer, the gross proceeds including the portion of the fines to be credited

to the traffic education account shall be transmitted to the state treasurer and the appropriate portion shall be deposited in the traffic education account.

Duties of state superintendent—traffic education.

Section 438. Section 75-7904. **Duties of superintendent of public instruction.** The superintendent of public instruction shall: (1) develop, administer, and supervise the program of instruction in traffic education;

(2) establish basic course requirements in classroom instruction and behind-the-wheel instruction for traffic education;

(3) establish the classroom instruction and the behind-the-wheel instruction qualifications for a teacher of traffic education;

(4) approve teachers of traffic education when such teachers are qualified;

(5) establish criteria for traffic education course approval based on the basic course requirements, teacher of traffic education qualifications, and the requirements of law;

(6) approve traffic education courses when such courses meet the criteria for approval;

(7) promulgate a policy for the distribution of the traffic education monies to approved traffic education courses and annually order the distribution of the proceeds of the traffic education account in the manner required by law; and

(8) assist districts with the conduct of traffic education.

Trustees may establish course—requirements.

Section 439. Section 75-7905. **District establishment of traffic education program.** The trustees of any district operating a junior high school or high school may establish and maintain a traffic education course. The traffic education course shall be: (1) for students who are fifteen (15) years old or older or will have reached their fifteenth (15th) birthday within six (6) months of the course completion;

(2) taught by a teacher of traffic education;

(3) conducted in accordance with the basic course requirements established by the superintendent of public instruction; and

(4) tought during regular school hours, after regular school hours, on Saturdays, or as a summer school course, at the option of the trustees.

Section 440. Section 75-7906. **Annual allocation and distribution of traffic education account proceeds, and allocation for state administration.** The superintendent of public instruction shall annually order the distribution of all monies in the traffic education account to the districts conducting approved traffic education courses. The distribution of the traffic education monies shall be based on the distribution policy promulgated by the superintendent of public instruction; provided that the reimbursements to districts shall be based upon the number of pupils, who in a given school fiscal year, complete an approved traffic education course including both the classroom instruction and behind-the-wheel driving.

Order of distribution of monies.

Basis for distribution.

Before such fund is disbursed, there shall be deducted an amount necessary to provide for the state administration of the traffic education program by the superintendent of public instruction. Such state administration may include development, printing, and distribution of essential materials; preparation of teachers of traffic education; state supervision of the program; and any and all other activities deemed necessary by the superintendent of public instruction. The amount deducted shall not exceed twenty-four thousand dollars ($24,000) annually.

Deductions for state administration.

Maximum $24,000 annually.

Section 441. Section 75-7907. **District traffic education fund.** The trustees of any district maintaining a traffic deucation course shall establish a special nonbudgeted fund with the county treasurer for traffic education. The state traffic education reimbursement and all nontax receipts for traffic education shall be deposited in the district's traffic education fund. The expenditure of the monies deposited in the district's traffic education fund shall not be subject to the budgeting provisions of this title and may be expended for traffic education.

Special fund—nonbudgeted.

Deposit of monies.

Expenditures.

Section 442. Section 75-8001. **Definition.** As used in this title, unless the context clearly indicates otherwise, "school food services" means a service of providing food for the pupils of a district on a non-profit basis, and shall include any food service financially assisted through funds or commodities provided by the United States government.

Definitions.

"School food services."

Section 443. Section 75-8002. **Acceptance, expenditure and administration of federal school food services monies.** The superintendent of public instruction is authorized to accept and direct the disbursement of funds appropriated by act of Congress and apportioned to the state for use in financing school food services. This authorization shall apply to federal funds available for school food services under the National School Lunch Act (Public Law 396, 79th Congress, chapter 281, 2nd Session), Child Nutrition Act of 1966 (Public Law 642, 89th Congress), any amendments to these public laws, and any other public laws enacted to provide assistance for school food services.

Authority to accept and disburse funds.

The superintendent of public instruction shall deposit all federal funds for school food services with the state treasurer who shall credit such funds to the federal and private grant clearance fund. Any disbursement of the federal school food services funds shall be directed by the superintendent of public instruction.

Deposit with state treasurer.

The superintendent of public instruction may: (1) enter into agreements and cooperate with any federal agency, district, or other agency or person, prescribe such regulations, employ such personnel, and take such other action as he may deem necessary to:

Powers of state superintendent.

(a) provide for the establishment, operation, and expansion of school food services; and

(b) disburse federal and state funds according to the requirements of federal and state law;

(2) give technical advice and assistance to any district establishing or operating school food services and assist in the training of personnel for such services;

(3) accept any gift for use in providing school food services;

(4) conduct studies of methods of improving and expanding school food services and appraise the nutritive benefits of school food services.

The superintendent of public instruction shall report annually to the board of education on the financial, administrative, and operational phases of school food services.

Annual report to board.

Regulations.

Financial records.

Section 444. Section 75-8003. **Records, reports, reviews and audits.** The superintendent of public instruction shall prescribe regulations for keeping the financial and commodity records and making reports on school food services operated by a district. The financial records shall always be available for inspection and audit by federal and state officials authorized by law or contract to perform audits and shall be preserved for such period of time, not to exceed five (5) years, as the superintendent of public instruction may prescribe.

Audits, inspections and reviews.

The superintendent of public instruction shall conduct or cause to be conducted the audits, inspections, and administrative reviews of the financial records and the operation of school food services.

Authority to accept and distribute food commodities.

Costs.

Reimbursement.

Section 445. Section 75-8004. **School food commodities.** The superintendent of public instruction is authorized to accept food commodities from the federal government and to distribute the food commodities to any district or non-public school that contracts for such distribution. The superintendent of public instruction may use for the shipping, handling, and other related costs of distributing the food commodities, any funds advanced by legislative appropriation for the commodity revolving account. Such distribution costs shall be reimbursed by the participating districts and non-public schools. Those reimbursements shall be returned to the fund from which payments for the distribution costs were made.

Powers of trustees.

Section 446. Section 75-8005. **Duties of trustees.** The trustees of any district offering school food services may: (1) enter into contracts with the superintendent of public instruction for the purpose of obtaining funds, supplies and equipment, food commodities, and facilities necessary for the establishment, operation, and maintenance of the school food services;

(2) sell food to the pupils and adults participating in the school food services in accordance with the policies of the superintendent of public instruction;

(3) accept any gift for use of the school food services;

(4) allocate federal funds received in lieu of property taxation to the school food services fund in accordance with the provisions of section 75-8006; and

(5) adopt such policies for the operation of school food services as are consistent with the regulations of the superintendent of public instruction and with the laws of Montana.

School food services fund.

When the trustees of any district offer school food services, they shall establish a school food services fund for the deposit of proceeds from the sale of food, gifts and other monies specified in this section and for the expenditure of such monies in support of the school food services.

Application for federal funds—indigent pupils.

Procedures.

Section 447. Section 75-8006. **Allocation of federal funds to school food services fund for federally connected indigent pupils.** The trustees of any school district receiving federal reimbursement in lieu of taxes may request the allocation of a portion of such federal funds to the school food services fund to provide free meals for federally-connected, indigent pupils when the pupils are declared eligible. In granting the request, the county superintendent shall comply with the following procedures: (1) The indigency must be certified by the county department of welfare, assisted by a committee of three (3) composed of the county superintendent, a representative of the county health department, and an authorized representative of the district;

(2) A certified, detailed claim for the amount of the federal reimbursement in lieu of taxes that is to be allocated to the school food services fund shall be filed by the district with the county superintendent. The county superintendent shall confirm or adjust the amount of the claim by:

(a) determining that the pupils included on the claim have been declared indigent under subsection (1);

(b) determining the number of meals provided the indigent pupils by the school food services;

(c) determining the price per meal charged the non-indigent pupil; and

(d) multiplying the number of meals provided to indigent pupils by the price per meal.

(3) After the county superintendent's confirmation or adjustment of the claim, he shall notify the district and the county treasurer of the approved amounts for allo-

Deposit.

cation to the school food services fund. The district shall deposit the approved amount in the school food services fund on receipt of the succeeding federal payment in lieu of taxes.

Definition.

Section 448. Section 75-8101. **Definition.** As used in this title, unless the context clearly indicates otherwise,

"Community college district."

the term "community college district" means a body corporate and a subdivision of the state of Montana organized under a single board of trustees for the purpose of providing community college instruction to high school graduates and other persons who have terminated their formal high school education. Community college districts shall be in addition to any other districts existing in any portion of the area encompassed by the community college district.

Name.

Section 449. Section 75-8102. **Community college districts name and corporate powers.** A community college district shall be known as "Community College District of ....., Montana." In this name the community college district may sue and be sued, levy and collect taxes within the limitations of the laws of Montana, and

Corporate powers.

possess the same corporate powers as districts in this state, except as otherwise provided by law.

Board supervision—duties.

Section 450. Section 75-8103. **Supervision by board of education.** Community college districts shall be under the supervision of the board of education. The board of education shall: (1) Establish the role of the two-year college in the state;

Role.

Survey form.

(2) Set up a survey form to be used for local surveys of need and potential for two-year colleges and provide supervision in the conducting of surveys;

Supervision.

(3) Supervise the community college districts;

Uniform policies.

(4) Formulate and put into effect uniform policies as to budgeting, record keeping, and student accounting;

Uniform requirements.

(5) Establish uniform minimum entrance requirements and uniform curricular offerings for all community colleges;

Continuing study.

(6) Make a continuing study of community college education in the state; and

(7) Be responsible for the accreditation of each community college under its supervision. Accreditation shall be conducted annually or as often as deemed advisable and made in a manner consistent with the rules and regulations established and applied uniformly to all community college districts in the state. Standards for such accreditation shall be formulated with due consideration given to curriculum offerings and entrance requirements of the Montana university system.

Annual accreditation.

Request for election—organization of community college district requirements.

Section 451. Section 75-8104. **Requirements for organization of community college district.** The registered electors in any area of the state of Montana may request an election for the organization of a community college district where the proposed community college district conforms to the following requirements: (1) The proposed area shall coincide with the then existing boundaries of contiguous elementary districts of one or more counties.

Boundaries.

Assessed valuation $30,000,000.

(2) The assessed valuation of the proposed area is at least thirty million dollars ($30,000,000).

At least 700 pupils.

(3) There are at least seven hundred (700) pupils regularly enrolled in public and private high schools located in the proposed area.

Petition.

Section 452. Section 75-8105. **Petition to propose organization of community college district.** When the area of a proposed community college district satisfies the specified requirements, the registered electors of the area may petition the board of education to call an election for the organization of a community college district. Such petition shall be signed by at least twenty per cent (20%) of the registered electors within each county or a part of a county included in the area of the proposed community college district.

20% of electors.

Procedure.

Section 453. Section 75-8106. **Call of community college district organization election and proposition statement.** A petition for the organization of a community college district shall be presented to the board of education. The board of education shall examine the petition to determine if the petition satisfies the petitioning and community college district organizational requirements.

If the board of education determines that the petition satisfies such requirements, the board of education shall order the elementary districts encompassed by the pro-

posed community college district to conduct an election on the community college district organization proposition. Such election shall be held on the next succeeding regular school election day, except that an election required by a petition received by the board of education less than sixty (60) days before the regular school election day shall be held at the regular school election in the following school fiscal year.

Election.

Ballot form.

At such election, the proposition shall be in substantially the following form:

PROPOSITION

Shall there be organized within the area comprising the School Districts of *(elementary districts shall be listed by county)*, State of Montana, a community college district for the offering of 13th and 14th year courses, to be known as the Community College District of ......, Montana, under the provisions of the laws authorizing community college districts in Montana, as prayed in the petition filed with the Board of Education at Helena, Montana, on the ..... day of ....., 19.....?

☐ For organization

☐ Against organization

Election of trustees —community college district determination of trustee positions.

Section 454. Section 75-8107. **Election of trustees, districts from which elected and terms of office.** The board of education shall provide for the election of trustees of the proposed community college district at the election held for the approval of its organization. Seven (7) trustees shall be elected at large, except that should there be in such proposed community college district one or more high school districts or part of a high school district within the community college district with more than forty-three per cent (43%) and not more than fifty per cent (50%) of the total school census of the proposed district, as determined by the last school census, then each such district or part of district shall elect three (3) trustees and the remaining trustees shall be elected at large from the remainder of the proposed community college district. Should any such high school district or such part of a high school district have more than fifty per cent (50%) of the total school census of the proposed district, then four (4) trustees shall be elected from such high school district or such part of high school district

and three (3) trustees at large from the remainder of the proposed community college district. If the trustees are elected at large throughout the entire proposed community college district, the one receiving the greatest number of votes shall be elected for a term of seven (7) years, the one receiving the next greatest number of votes, for a term of six (6) years, the one receiving the next greatest number of votes, for a term of five (5) years, the one receiving the next greatest number of votes for a term of four (4) years, the one receiving the next greatest number of votes for a term of three (3) years, the one receiving the next greatest number of votes for a term of two (2) years, and the elected one receiving the least number of votes for a term of one (1) year. If the trustees are elected in any manner other than at large throughout the entire proposed community college district, then the trustees elected shall determine by lot the one who shall serve for seven (7) years, the one who shall serve for six (6) years, the one who shall serve for five (5) years, the one who shall serve for four (4) years, the one who shall serve for three (3) years, the one who shall serve for two (2) years, and the one who shall serve for one (1) year. Thereafter, all trustees elected shall serve for terms of seven (7) years each.

Terms of office defined.

Call for nominations.

Publication of notice.

Provisions of notice.

Section 455. Section 75-8108. **Call for nominations of trustee candidates and notice.** A call for nominations of trustee candidates for the proposed community college district shall be made by the board of education. Notice of the call for nominations shall be published in at least one newspaper of general circulation in each county or any portion of a county included in the proposed community college district, once a week for three consecutive weeks, the last insertion to be no less than five weeks prior to the date of the election. Such notice shall describe the geographical composition of the board of trustees membership, nomination procedure, and the proposal for the organization of a community college district.

Nominations filed 30 days prior to election.

Five qualified electors.

Section 456. Section 75-8109. **Nomination of candidates and provision of sample ballot.** Nominations of candidates for the trustee positions must be filed with the board of education at least thirty (30) days prior to the date of the election. Any five qualified electors may file nominations of as many persons as are to be elected to the board of trustees of the proposed community college dis-

trict from their respective community college trustee election areas. The board of education shall provide the trustees of each district ordered to conduct the community college district organization election with a sample of the ballot for the election of the board of trustees. Such sample ballot shall be reproduced by the trustees in a sufficient number to be used as the trustee election ballot.

Sample ballots.

Ballot.

Section 457. Section 75-8110. **Notice of organization election.** Notice of the community college district organization election and the accompanying election of a board of trustees for the proposed community college district shall be given by the board of education by publication in at least one newspaper of general circulation in each county or any portion of a county included in the proposed community college district, once a week for three consecutive weeks, the last insertion to be no more than one week prior to the date of the election.

Publication of notice of election.

Once a week for three consecutive weeks.

Section 458. Section 75-8111. **Conduct of election.** The election for the organization of the community college district and the election of trustees for such community college district shall be conducted, in accordance with the school election laws, by the trustees of the elementary districts ordered to call such election. The cost of conducting such election shall be borne by the districts.

Trustees of elementary districts shall conduct election.

Costs.

Section 459. Section 75-8112. **Determination of approval or disapproval of proposition and subsequent procedures if approved.** The proposal to organize the community college district, to carry, must receive a majority of the total number of votes cast thereon and the superintendent of public instruction, from the results so certified and attested, shall determine whether the proposal has received the majority of the votes cast thereon for each county or part of a county within the proposed district and shall certify the results to the board of education. Should the certificate of the superintendent of public instruction show that the proposition to organize such community college district has received a majority of the votes cast thereon in each county or part of a county within the proposed district, the board of education shall make an order declaring the community college district organized and cause a copy thereof to be recorded in the office of the county clerk and recorder in each county in which a portion of such new district is located. If the proposition carries in some county or counties or parts of

Majority vote.

Certification.

Order.

Recording.

counties but not in all portions of the area sought to be included within the district, the board of education shall determine whether the area in which the proposition carried by a majority vote meets the assessed valuation and high school pupil enrollment requirements for the organization of a community college district, and if so, shall establish the boundaries and make an order declaring the community college district organized in the area in which the proposition has carried by a majority vote. If the proposition carries, the board of education also shall determine which candidates have been elected trustees. Should the proposition to organize the community college district fail to receive a majority of the votes cast thereon, no tabulation shall be made to determine the candidates elected trustees.

Determinations by board of education.

Boundaries.

Order.

Within thirty (30) days of the date of the organization order, the board of education shall set a date and call an organization meeting for the board of trustees of the community college district and shall notify the duly elected trustees of their membership and of the organization meeting. Such notification shall designate a temporary chairman and secretary for the purposes of organization.

Organization meeting.

Notice to trustees.

Section 460. Section 75-8113. **Qualifying and organization of board of trustees.** Newly elected members of the board of trustees of the community college district shall be qualified by taking the oath of office prescribed by article XIX, section 1, of the constitution of Montana. At the organization meeting called by the board of education, the board of trustees shall be organized by the election of a president and vice-president and a secretary; said secretary may be or may not be a member of the board. The treasurer of the community college district shall be the county treasurer of the county in which the community college facilities are located.

Oath.

Election of officers.

Section 461. Section 75-8114. **Election of trustees after organization of community college district.** After organization, the registered electors of the community college district shall vote for trustees on the first Saturday in April, and such elections shall be conducted by the component elementary school districts within such community college district upon the order of the board of trustees of the community college district. Such order shall be transmitted to the appropriate trustees not less

Subsequent elections.

First Saturday in April.

Order to trustees—40 days prior to election.

than forty (40) days prior to the regular school election day.

Publication of notice.

Notice of the community college district trustee election shall be given by the board of trustees of the community college district by publication in one (1) or more newspaper of general circulation within each county, not less than once a week for two (2) consecutive weeks, the last insertion to be no longer than one (1) week prior to the date of the election. This notice shall be in addition to the election notice to be given by the trustees of the component elementary districts under the school election laws.

Qualified voters.

Declarations of candidacy.

Ballots.

Conduct of elections.

Costs.

Should trustees be elected other than at large throughout the entire district, then only those qualified voters within the area from which the trustee or trustees are to be elected shall cast their ballots for the trustee or trustees from that area. All candidates for the office of trustee shall file their declarations of candidacy with the secretary of the board of trustees of the community college district not less than thirty (30) days prior to the date of election. If an electronic voting system or voting machines are not used in the component elementary school district or districts which conduct the election, then the board of trustees of the community college district shall cause ballots to be printed and distributed for the polling places in such component districts at the expense of the community college district, but in all other respects said elections shall be conducted in accordance with the school election laws. All costs incident to election of the community college trustees shall be borne by the community college district including one-half (1/2) of the compensation of the judges for the school elections; provided that, if the election of the community college district trustees is the only election conducted, the community college district shall compensate the district for the total cost of the election.

Tabulation.

Section 462. Section 75-8115. **Tabulation, declaration and certification of elected trustees.** When the board of trustees of the community college district has received all the certified results of the election from the component elementary districts, the then qualified members of the board of trustees of such community college district shall tabulate the results so received, shall declare and certify the candidate or candidates receiving the greatest number of votes to be elected to the position or positions to be filled, and shall declare and certify the results of the votes cast on any proposition presented at such election.

Certification.

Vacancies.

Section 463. Section 75-8116. **Vacancy of trustee position.** Any vacancy of a trustee's position shall be filled by appointment by the remaining trustees, and the person appointed shall hold office until the next regular school election day, when a trustee shall be elected for the remainder of the unexpired term.

Monthly meetings.

Special meetings.

Notice.

Section 464. Section 75-8117. **Board of trustees' meetings, quorum, travel reimbursement and seal.** The board of trustees of the community college shall hold monthly meetings within the community college district on such day of the month the trustees may set. The president and secretary of the board or a majority of the board may also call special meetings of the board of trustees at any time and place within the community college district, if in their judgment necessity requires it. The secretary of the board shall notify the members of all special meetings.

Quorum.

A majority of the board of trustees shall constitute a quorum for the transaction of business except that no contract shall be let, teacher employed or dismissed, or bill approved unless a majority of the total board membership shall vote in favor of such action.

10c per mile.

The members of the board of trustees shall receive ten cents (10¢) per mile for the distance necessarily traveled in going to and returning from the place of the meeting and his place of residence each day that such trip is actually made.

Seal.

The board shall keep a common seal with which to attest its official acts.

Conflicts of interest prohibited.

Section 465. Section 75-8118. **Pecuniary interest and letting contracts.** It shall be unlawful for any community college district trustee to have any pecuniary interest, either directly or indirectly, in the erection of any community college building in his district, or for furnishing or repairing the same, or be in any manner connected with the furnishing of supplies for the maintenance of the college, or to receive or to accept any compensation or reward for services rendered as trustee, except as herein

Advertising for bids—contracts over $2,000.

provided. No board of trustees shall let any contract (except if the amount involved is less that two thousand dollars ($2,000) for building, furnishing, repairing or other work or supplies for the benefit of the district, without first advertising once each week for at least two (2) weeks in a newspaper published in each county wherein the area of the district lies, and without calling for bids to perform such work or furnish such supplies. In all cases

Award.

where advertising is required, the board shall award the contract to the lowest responsible bidder; provided, however, that the board of trustees shall have the right to reject any and all bids.

Rejection.

Section 466. Section 75-8119. **Courses of instruction and tuition fees.** A community college district shall provide instruction, classes, school or schools for student residents within the community college district, in academic, occupational, and adult education, subject to the approval of the board of education. The board of trustees of such district may in their discretion determine the per capita cost of such courses, file the same with the board of education and upon approval thereof by the board of education, shall require of all nondistrict residents who are accepted as pupils, a tuition fee in such sum as may be necesesary for maintenance of such course or courses. A different tuition may be established as between nondistrict residents residing within the state of Montana and those residing outside the state of Montana. In addition thereto, such board of trustees may charge resident students such amounts as it deems necessary to maintain such courses, taking into consideration such other funds as may be available under law for the support of such course.

Instruction.

Nonresident tuition.

Resident student charges.

Section 467. Section 75-8120. **Employment of personnel and retirement system for employees.** The board of trustees shall appoint the employees of the community college, define and assign their powers and duties and fix their compensation.

Employment of personnel.

The community college district and teachers of a community college district shall be subject to and the teachers shall be eligible for the benefits of the Teachers Retirement System provided by the laws of Montana.

Teachers retirement system.

Section 468. Section 75-8121. **Budgeting and financing, average number belonging, participation in foundation program, special levy, adult education and acceptance of federal funds.** A community college district shall be considered a district under the high school budgeting and financing provisions of the laws of Montana for the purposes of budgeting and financing such community college district. When the community college district encompasses territory in more than one county, the community college district shall be subject to the budgeting and financing laws for a joint high school district. In either case, the budget of a community college district shall be complete and separate.

Considered district for purposes of budgeting and financing.

Separate budget.

The average number belonging for community colleges shall be determined by dividing the total number of eligible credits taken by eligible students by thirty (30). Eligible students for average number belonging calculation purposes shall be students who are under twenty-one (21) years of age for one-half or more of any quarter, including the summer quarter, and who are not concurrently enrolled in an elementary or high school. Eligible credits for average number belonging calculation purposes shall be: (1) credits taken by an eligible student;

Determination of ANB.

Eligible credits defined.

(2) credits taken in courses of instruction approved by the board of education.

Eligible credits for average number belonging calculation purposes shall not include: (1) credits taken in adult education courses;

(2) credits dropped by the eligible student before the midpoint in the quarter;

(3) credits taken in resident extension courses of the Montana university system.

The community college district shall participate in the foundation program in accordance with the laws of Montana as a high school district and the foundation program shall be determined in accordance with the high school foundation program schedule established by law.

Foundation program.

Whenever the board of trustees of a community college district shall deem it necessary to raise money by taxation in excess of the general fund budget limitation provided by law, they may proceed under the provisions for a high school district special levy to order the component elementary districts to conduct an election on the proposition for additional property taxation to raise such addi-

Additional taxation monies.

Election.

Conduct.

tional amount of money. Coordination of such election with the component elementary district shall be in accordance with the laws providing for the regular election of the community college trustees.

Adult education.

A community college shall be considered a district for the purposes of adult education and under the provisions for adult education may levy a one mill tax for the support of its adult education program when the superintendent of public instruction approves such program.

Authority to accept funds.

The board of trustees of a community college district is hereby authorized to accept funds from the federal government or the state of Montana, their instrumentalities or any of their agencies in aid of any one or more purposes or in maintaining and operating the community college.

Powers of trustees—community college district.

Section 469. Section 75-8122. **Sources of financing for and types of capital expenditures.** The board of trustees of any community college district is hereby vested with the power and authority to: (1) build, enlarge, alter, repair or acquire by purchase school buildings and dormitories;

(2) furnish and equip such buildings;

(3) purchase sites for such buildings;

(4) levy an additional tax not exceeding ten (10) mills on the dollar of the taxable value of all taxable property within the district for the purposes specified in this section. Such additional tax must be approved by the registered electors in the community college district who are taxpayers upon property within such district. Such election shall be conducted in accordance with the special levy provisions for community college districts.

Other powers.

The board of trustees of a community college district is further vested with the power and authority to accept or borrow monies from the federal government for the purposes of this section.

Donations.

Section 470. Section 75-8123. **Acceptance of donations.** The board of trustees of a community college district, on behalf of the district, is hereby authorized and empowered to accept gifts, legacies and devises, subject to the conditions imposed by the deed of the dower, or will of the testator, or without any conditions imposed.

Use of district property.

Section 471. Section 75-8124. **Lease or sale of district property.** Whenever a district has property that is not required for the use of the district, such property may be leased or sold and conveyed to the community college district. Such lease or sale of property shall be consummated in accordance with the provisions of the law of Montana.

Determination to annex.

Section 472. Section 75-8125. **Annexation of territory of districts to community college district.** Whenever the board of trustees of a community college district so resolves or whenever ten per cent (10%) of the registered electors of an elementary district or districts of one (1) county petition the board of trustees of a community college district for annexation of the territory encompassed in such elementary school districts, the board of trustees of the community college district shall order an annexation election in the area defined by the resolution or by the petition. Such election shall be ordered within sixty (60) days of the receipt of the petition or passage of the resolution.

Election within 60 days.

Conduct.

The election shall be conducted in the proposed area for annexation in accordance with the requirements of the community college organization election except that the board of trustees of the community college shall perform the requirements of the board of education and there shall not be an election of the board of trustees of the community college.

Ballot form.

The proposition on the ballot shall be as follows:

"Shall school districts ..... be annexed to and become a part of the community college district of ..... Montana?

The proposition on the ballot shall be as follows:

☐ For Annexation

☐ Against Annexation"

To carry, the proposal to annex must receive a majority of the total votes cast thereon. Upon receipt of the certified results of the election from the elementary districts encompassed in the proposed area to be annexed, the board of trustees of the community college district shall canvass the vote and declare the results of the election. If the annexation proposition carries, a certified copy of the

canvassing resolution shall be filed in the office of the county clerk and recorder of the county encompassing the area to be annexed and upon such filing, the area to be annexed shall then become a part of the community college district.

Property held in trust.

Section 473. Section 75-8201. **Trustees power over property.** The trustees of any district, other than a high school district operating a county high shcool, shall have the power and the responsibility to hold in trust all real and personal property of the district for the benefit of the schools and children of the district. In the name of the county, the trustees of a high school district operating a county high school, as defined by section 75-6501, shall have the power and the responsibility to hold in trust all real and personal property of the district for the benefit of the schools and children of the district.

Non user of school lands.

Right of re-entry.

Notice to trustees.

Forfeiture of improvements.

Resolution.

Vote.

Section 474. Section 75-8202. **Land acquired by conditional deed or at will or sufferance.** Whenever, after the effective date of chapter 206, Laws of 1939, the trustees acquire land by deed conditioned upon the use of the land for the conduct of school or related activities or whenever land has been used by the trustees at the will or sufferance of the land's owner or claimant and the district has constructed buildings or made other improvements on the land, the owner or claimant may repossess the land if it ceases to be used as specified by deed, or if not specified, for the conduct of school or related activities. However, the owner or claimant shall first notify the trustees in writing of his intent to repossess the land, and the trustees shall thereafter have one (1) year to remove any buildings or improvements placed there by the district. The trustees failure to remove the buildings or improvements within that time shall constitute a forfeiture of such buildings or improvements. Before the owner or claimant shall have the right to give notice of repossession, the district's intention to permanently cease using the land shall have been established by resolution of the trustees and vote of the district's electors.

Selection of school sites.

Approval by election.

Section 475. Section 75-8203. **Selection of school sites, approval election, and lease of state lands.** The trustees of any district shall have the authority to select the sites for school buildings or for other school purposes but such selection shall first be approved by the qualified electors of the district before any contract for the purchase of such site is entered into by the trustees, except the trustees shall have the authority to purchase or otherwise acquire property contiguous to an existing site that is in use for school purposes without a site approval election. Furthermore, the trustees may take an option on a site prior to the site approval election.

Exception.

Option.

Conduct of election.

Voter qualifications.

Majority vote.

Exception.

The election for the approval of a site shall be called under the provisions of section 75-6406 and shall be conducted in the manner prescribed by this title for school elections. An elector who may vote at a school site election shall be qualified to vote under the provisions of section 75-6410. If a majority of those voting at the election approve the site selection, the trustees shall have the authority to purchase such sites. A site approval election shall not be required when the site was specifically identified in an election at which an additional levy or the issuance of bonds was approved for the purchase of such site.

Mandatory site requirements.

Any site for a school building or other building of the district that is selected or purchased by the trustees shall: (1) be in a place that is convenient, accessible and suitable;

(2) comply with the minimum size and other requirements prescribed by the board of health of the state of Montana; and

(3) comply with the statewide building regulations, if any, promulgated by the state building code council.

Authority of state board to sell or lease sites.

10 acre limitation.

The state board of land commissioners shall have the authority to sell, at the appraised value, or to lease for any period of time less than ninety-nine (99) years, at an amount of one dollar ($1) per year, to a district any tract of state land of not more than ten (10) acres to be used as a school site in such district.

Trustees authority to deal with sites.

Approval by election.

Exceptions.

Section 476. Section 75-8204. **Trustees authority to acquire or dispose of sites and buildings, and when election required.** The trustees of any district shall have the authority to purchase, build, exchange, or otherwise acquire or sell or otherwise dispose of sites and buildings of the district. Such action shall not be taken by the trustees *without the approval of the qualified electors of the district* at an election called for such approval unless: (1) a bond issue has been authorized for the purpose of constructing, purchasing, or acquiring the site or building;

(2) an additional levy under the provisions of section 75-6923 has been approved for the purpose of constructing, purchasing, or acquiring the site or building;

(3) the cost of constructing, purchasing, or acquiring the site or building is financed without exceeding the maximum-general-fund-budget-without-a-vote amount prescribed in section 75-6905, and, in the case of a site purchase, the site has been approved under the provisions of section 75-8203; or

(4) monies are otherwise available under the provisions of this title and the ballot for the site approval for such building incorporated a description of the building to be located on the site.

Conduct of election.

When an election is conducted under the provisions of this section, it shall be called under the provisions of section 75-6406 and shall be conducted in the manner prescribed by this title for school elections. An elector qualified to vote under the provisions of section 75-6410 shall be permitted to vote in such election. If a majority of those electors voting at the election approve the proposed action, the trustees may take the proposed action.

Voter qualifications. Majority vote.

Section 477. Section 75-8205. **Trustees may sell property when resolution passed after hearing, and appeal procedure.** Whenever the trustees of any district determine that a site, building, or any other real property of the district is or is about to become abandoned, obsolete, undesirable, or unsuitable for the school purposes of such district, the trustees may sell or otherwise dispose of such real property in accordance with this section and without conforming to the provisions of section 75-8204.

Trustees authority to dispose of real property.

Resolution.

The trustees of any district shall adopt a resolution stating their intention to sell or otherwise dispose of district real property because it is or is about to become abandoned, obsolete, undesirable, or unsuitable for the school purposes of the district. When such a resolution is adopted, the trustees shall set the date of the trustees meeting when they shall consider the adoption of a resolution to authorize the sale or other disposition of such real property. The trustees shall cause notices to be posted in the manner required for school elections that state the text of the resolution of intention to sell or dispose of the real property and the time, date, and place when the resolution authorizing the sale or other disposition will

Meeting for adoption.

Posting of notice.

be considered for adoption. Any elector of the district shall have the right to be present and protest the passage of the resolution. If the trustees adopt the resolution and an elector has protested such adoption at the trustee meeting conducted for the hearing on the resolution, such resolution shall not become effective for five (5) days after the date of its adoption.

Elector's right to protest.

Effective date.

Any taxpayer may appeal the resolution of the trustees, at any time within five (5) days after the date of the resolution, to the district court by filing a verified petition with the clerk of such court and serving a copy of such petition upon the district. The petition shall set out in detail the objections of the petitioner to the adoption of the resolution or to the disposal of the property. The service and filing of the petition shall stay the resolution until final determination of the matter by the court. The court shall immediately fix the time for a hearing at the earliest, convenient time. At the hearing, the court shall hear the matter de novo and may take testimony as it deems necessary. Its proceedings shall be summary and informal, and its decision shall be final.

Appeal within five days to district court.

Petition.

Effect of service and filing.

Hearing.

De novo.

Decision final.

The trustees of a district that has adopted a resolution to sell or otherwise dispose of district real property and, if appealed, has been upheld by the court shall sell or dispose of such real property in any reasonable manner that they determine to be in the best interests of the district. The monies realized from the sale or disposal shall be credited to the debt service fund, building fund, general fund, or any combination of these three funds, at the discretion of the trustees.

Disposition of property.

Credit of monies.

Section 478. Section 75-8206. **Review and approval of school building plans and specifications.** No school building in the state, either publicly or privately owned or operated, shall be built, enlarged, remodeled, or repaired until the plans and specifications for such construction have been submitted to the state board of health and the state fire marshal, and such public agencies have endorsed their approval on such plans and specifications. The plans and specifications shall show in detail the proposed construction of the building and shall illustrate and indicate conformity with the regulations of the board of health and of the state fire marshal. The plans and specifications shall be prepared in accordance with the regulations of the board of health of the state of Montana, the regula-

Mandatory approval of plans and specifications.

Preparation of plans.

tions of the Montana state fire marshal, and the building code promulgated by the state building code council.

Review.

As a service to districts, the superintendent of public instruction shall review the plans and specifications submitted to the board of health to assist the districts in designing facilities for optimum utilization.

State board of health—regulations.

Section 479. Section 75-8207. **Regulations of board of health.** The state board of health shall adopt regulations prescribing the requirements for school sites, school buildings, ventilation, heating, lighting, water supply, sewage and waste disposal, and any other matters pertinent to the health and physical well-being of the pupils, teachers, and others who frequent schools. Such regulations of the state board of health shall require: (1) at least fifteen (15) square feet of floor space and two hundred (200) cubic feet of air space for each pupil to be accommodated in each classroom;

Mandatory requirements.

(2) a system of ventilation which shall be adequate to produce satisfactory conditions of air in all rooms of the building at all times and under all conditions;

(3) a ventilation system of fire resistant material and construction; and

(4) a system of lighting all parts of the building that will produce an adequate quality and quantity of illumination at all times.

Distribution.

The state board of health shall furnish to the districts copies of such regulations.

Payment prior to approval forbidden.

Section 480. Section 75-8208. **School building plans and specifications approval before payment.** The trustees of a district shall not make any payment under any contract for the construction of school facilities until the plans and specifications for such construction have been approved under the provisions of section 75-8206. Any contractor, architect, trustee, or any other person, firm, or corporation who shall violate the provisions of section 75-8206, this section or any regulation promulgated by the state board of health or the state fire marshal shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

Penalties for violations.

Section 481. Section 75-8209. **Authorization to lease**

Authority to lease buildings.

buildings for school purposes. The trustees of any district shall have the authority to lease buildings suitable for school purposes when it is within the best interests of the district to lease such building from the county, another district, or any person. Except as provided in section 75-8203, such lease may be for a term of not more than three (3) years and, when the lease is for a period of time that is longer than the current school fiscal year, the lease requirements for the succeeding school fiscal years shall be an obligation of the final budgets for such years.

Limitations.

Conduct of bid lettings.

Section 482. Section 75-8210. **Letting contracts for school facilities.** Any letting of contracts related to the construction or furnishing of a new, enlarged, remodeled, or repaired building shall be conducted under the provisions of section 75-6808.

Authority to rent.

Section 483. Section 75-8211. **Leasing district property and disposition of any rentals.** The trustees of any district shall have the authority to rent, lease, or let any buildings or facilities of the district under the terms specified by the trustees. Any money collected for such rental, lease, or letting shall be deposited to the credit of that fund which finances the cost of maintaining such real property.

Deposit of monies.

Duty to insure property.

Section 484. Section 75-8212. **Authority and duty of trustees to insure district property.** The trustees of any district shall have the authority and it shall be their duty to insure any or all real and personal property of the district.

Gender defined.

Section 485. Section 75-8301. **Gender.** Whenever the masculine gender is used in this title, it shall be understood also to mean the feminine gender.

Deposit of fines and penalties.

Section 486. Section 75-8302. **Fines and penalties proceeds for elementary county equalization and reporting such proceeds.** All fines and penalties collected under the provisions of this title shall be collected by the action of a court of competent jurisdiction and shall be paid into the county elementary equalization fund as provided by subsection (4) of section 75-6912. In order to implement this section and any other provision of law requiring the deposit of fines in the elementary county equalization fund, the following reports shall be made to the county superintendent of the county in which each court or

Mandatory reports.

justice of the peace shall have jurisdiction: (1) during the month of September each justice of peace shall report all fines imposed and collected during the preceding year indicating the type of violation, and the date of collection; and

(2) at the close of each term the clerk of each district court shall report all fines imposed and collected during the term, indicating the tpe of violation, and the date of collection.

School officers shall not act as agents.

Section 487. Section 75-8303. **School officers not to act as agents.** The superintendent of public instruction or members of his staff, county superintendent or members of his staff, trustee or district employee shall not act as an agent or solicitor in the sale or supply of goods or services to a district. No such person shall assist or receive a reward from an agent or solicitor of goods or services for a district. Any such person violating this section shall be deemed guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than fifty dollars ($50) or more than two hundred dollars ($200) and shall be liable to removal from his position. The penalties provided by this section shall not be applicable if the charge and conviction are made under the provisions of section 75-7610.

Penalties for violation.

Oath of office.

Section 488. Section 75-8304. **Oath of office.** Any person elected or appointed to any public office authorized by this title shall take the oath of office before qualifying for and assuming the office. In case an officer has a written appointment or commission, his oath shall be endorsed thereon; otherwise it may be taken orally; and, in either case, it may, without charge or fee, be sworn to before an officer authorized to administer oaths for such public office.

Duties of county attorney as legal advisor.

Section 489. Section 75-8305. **Duty of county attorney.** The county attorney shall be the legal advisor of the county superintendent and the trustees of any district located within his county of jurisdiction, and shall prosecute and defend all suits to which such persons, in their capacity as public officials, may be a party.

Penalties for school disturbance.

Section 490. Section 75-8306. **Disturbance of school.** Any person who shall willfully disturb any school or any school meeting shall be deemed guilty of a misdemeanor and, if convicted by a court of competent jurisdiction,

shall be fined not less than ten dollars ($10) or more than one hundred dollars ($100).

Penalties for violations.

Section 491. Section 75-8307. **Penalty.** Unless otherwise specifically provided by law, any person who shall violate any provisions of this title shall be deemed guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than twenty dollars ($20) or more than two hundred dollars ($200), or by imprisonment in the county jail for not less than five (5) days or more than thirty (30) days, or by both such fine and imprisonment.

Thirty or more pupils.

Fire gongs.

Fire drills.

Section 492. Section 75-8308. **Fire drill.** In a public or private school with thirty (30) or more children enrolled, the trustees of the district or those persons charged with the administration of the private school shall provide and install the number of fire gongs prescribed by the fire marshal for such school. The teachers in schools equipped with a fire gong shall instruct the children under their supervision in the fire drill procedure of their school. The district superintendent or principal or, if there is none, the teacher shall cause the conduct of a fire drill once a week for the first month of school and once each month thereafter. The fire drills shall be conducted on no certain day of the week or hour of the day by sounding the gong and immediately ushering the children out the nearest exit in single file.

Penalties for noncompliance.

Any trustee, school employee or other person charged with responsibilities under this section who does not comply with this section shall be guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than five dollars ($5) or more than fifty dollars ($50).

Mandatory instruction in fire dangers.

Section 493. Section 75-8309. **Instruction in fire dangers and prevention.** Every teacher or instructor of a public or private elementary grade consisting of more than ten (10) pupils shall devote not less than ten (10) minutes in each week during which school is in session to the instruction of pupils in fire dangers.

Lesson book.

For the purpose of such instruction it shall be the duty of the commissioner of insurance to prepare a book, conveniently arranged in lessons. Such lessons shall be in a sufficient number to provide a different lesson for each

week of the legally prescribed school term. One of the lessons shall be read by the teachers each week. If the commissioner of insurance deems it advisable, fire danger lessons published by another state may be used in lieu of the lessons published by the commissioner of insurance.

Publication.

The fire danger book shall be published at the expense of the state from the amount appropriated for public printing, under the direction of the superintendent of public instruction, and shall be distributed by the superintendent of public instruction in quantities sufficient to provide a copy for each teacher required to give fire danger instruction.

Distribution.

Penalties for willful neglect.

Willful neglect by any person in charge of any public, private or parochial school of the elementary grades to comply with the provisions of this chapter, shall be a misdemeanor, punishable for each offense by a fine of not less than five dollars ($5) nor more than twenty dollars ($20).

Section 494. Section 75-8310. **School safety patrols.** The trustees of any district or the administration of any private school shall have the authority to organize and supervise school safety patrols for a school under their authority. The purpose of school safety patrols shall be to influence and encourage other pupils of the school to refrain from crossing public highways at points other than regular crossings and to direct pupils as to when and where to cross highways.

School safety patrols—purposes.

Composition.

The school safety patrol shall be formed from the children of the school who are nine (9) years of age or more or, if there are none, who are of the highest grade of such school. Before any child may serve on the school safety patrol, the parent or guardian of such child shall give written consent for his child to serve on the school safety patrol.

Parental consent.

No liability attaches.

No liability shall attach either to the school, educational institution, governing board, directing authority, or parent or guardian, or any individual director, member of the trustees, district superintendent, principal, teacher or other school authority by virtue of the organization, maintenance or operation of such school safety patrol because of injuries sustained by any pupil, whether a member of the patrol or otherwise by reason of the operation and maintenance thereof.

Uniform identification.

Identification and operation of school safety patrols shall be uniform throughout the state and the method of identification and signals to be used shall be as prescribed by the superintendent of public instruction in cooperation with the Montana highway patrol.

Training.

Any municipality, city or town of this state may provide for the training of members of the school safety patrol at any authorized school patrol camp located in this state and may pay the expense necessarily incurred in providing such training, out of any funds available. for such purpose.

Severability clause.

Section 495. Section 75-8311. **It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid parts remain in effect.** If a part of this act is invalid in one or more applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Repealing clause.

Section 496. Sections 75-101 through 75-107, 75-1201.1, 75-1202 through 75-1206, 75-1301 through 75-1308, 75-1311, 75-1312, 75-1313, 75-1315, 75-1316, 75-1317, 75-1319, 75-1320, 75-1401 through 75-1406, 75-1501 through 75-1510, 75-1512 through 75-1526, 75-1528 through 75-1535, 75-1601 through 75-1626, 75-1628 through 75-1632, 75-1632.1, 75-1633 through 75-1647, 75-1701 through 75-1706, 75-1708, 75-1709, 75-1710, 75-1712, 75-1713, 75-1713.1, 75-1714 through 75-1723, 75-1723.1, 75-1724 through 75-1730, 75-1801 through 75-1813, 75-1813.1, 75-1814 through 75-1823, 75-1825 through 75-1834, 75-1901 through 75-1905, 75-2001 through 75-2009, 75-2011 through 75-2017, 75-2101 through 75-2105, 75-2201 through 75-2215, 75-2301, 75-2302, 75-2303, 75-2401 through 75-2405, 75-2405.1, 75-2406 through 75-2411, 75-2501, 75-2506, 75-2511 through 75-2516, 75-2518 through 75-2522, 75-2701 through 75-2709, 75-2709.1, 75-2709.2, 75-2710 through 75-2716, 75-2801, 75-2802, 75-2901 through 75-2910, 75-3101, 75-3102, 75-3104 through 75-3125, 75-3201, 75-3202, 75-3203, 75-3308 through 75-3311, 75-3401 through 75-3414, 75-3501, 75-3503 through 75-3511, 75-3610, 75-3611, 75-3612, 75-3612.1, 75-3612.2, 75-3612.3, 75-3613 through 75-3624, 75-3701, 75-3706, 75-3709 through 75-3714, 75-3716 through 75-3720, 75-3722 through 75-3729, 75-3729.1, 75-3734 through 75-3742, 75-3801 through 75-3806, 75-3901 through 75-3946, 75-4001 through 75-4007, 75-4101, 75-4103 through 75-4113, 75-4115 through 75-4118,

75-4120, 75-4120.1, 75-4120.2, 75-4120.3, 75-4121 through 75-4144, 75-4146 through 75-4153, 75-4201 through 75-4228, 75-4230 through 75-4242, 75-4244 through 75-4248, 75-4309 through 75-4323, 75-4413 through 75-4430, 75-4501 through 75-4506, 75-4511, 75-4512, 75-4514, 75-4515, 75-4516.1, 75-4516.2, 75-4517, 75-4518, 75-4518.1, 75-4519 through 75-4527, 75-4529 through 75-4535, 75-4537, 75-4538, 75-4540, 75-4601 through 75-4607, 75-4609 through 75-4614, 75-4701 through 75-4709, 75-4801 through 75-4809, 75-5001 through 75-5007, 75-5101, 75-5310 through 75-5317, 75-5401 through 75-5405, 75-5501 through 75-5508, R.C.M. 1947, are repealed.

Effective immediately.

Section 497. This act is effective on its passage and approval.

Approved January 26, 1971

CHAPTER NO. 6

An Act to Amend Section 15-22-119, R.C.M., 1947, to Change the Time For Filing Annual Reports.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 15-22-119, R.C.M., 1947, is amended to read as follows:

Annual report due between January 1 and April 15 of each year.

"15-22-119. **Filing of annual report of domestic and foreign corporations.** Such annual report of a domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the *fifteenth* day of *April* of each year, except that the first annual report of a domestic or foreign corporation shall be filed between the first day of January and the *fifteenth* day of *April* of the year next succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the secretary of state. Proof to the satisfaction of the secretary of state that prior to the *fifteenth* day of *April* such report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement. If the secretary of state finds that such report conforms to the requirements of this act, he shall

Proof of mailing.

file the same. If he finds that it does not so conform, he shall promptly return the same to the corporation for any necessary corrections, in which event the penalties hereinafter prescribed for failure to file such report within the time hereinabove provided shall not apply, if such report is corrected to conform to the requirements of this act and returned to the secretary of state within thirty days from the date on which it was mailed to the corporation by the secretary of state."

Penalties do not apply if report corrected within 30 days.

Approved January 26, 1971.

CHAPTER NO. 7

An Act to be Known as the "Territorial Integrity Act of 1971" and to Prescribe Certain Rights and Enforcement Thereof With Respect to the Furnishing of Electric Service, Amending Section 14-502, R.C.M., 1947, Relating to the Purposes for Which Cooperatives May be Organized; and Section 14-530, R.C.M., 1947, Relating to Definitions and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act shall be known and may be cited as the "Territorial Integrity Act of 1971."

Title citation.

Section 2. When used in this act:

(1) The term "electric supplier" means any electrical utility and any electric cooperative.

Electric supplier defined.

(2) The term "electric utility" means a person, firm or corporation other than an electric cooperative which furnishes electrical service to the public.

Electric utility defined.

(3) The term "electric cooperative" means a rural electric cooperative organized under chapter 5 of Title 14, R.C.M. 1947, or a foreign corporation admitted thereunder to do business in Montana.

Electric cooperative defined.

(4) The term "premises" means a building, residence, structure, or facility to which electricity is being or is to be furnished; provided, that two or more buildings, structures or facilities which are located on one tract or contiguous tracts of land and are utilized by one electric consumer for farming, business, commercial, industrial,

Premises defined.